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VOLUME 29

IN THE SUPERIOR COURT,

State of California, County of Sacramento.

OCTOBER SESSION, 1881.

HON. JACKSON TEMPLE, - - - - - - Presiding Judge.

WINFIELD J. DAVIS, Official Reporter.

SAMUEL OSBOURNE and WILLIAM M. CUTTER, Reporters.

The People of the State of California,
vs.
The Gold Run Ditch and Mining Co.

COUNSEL:

For Plaintiff,

HON. A. L. HART, Attorney General, GEORGE CADWALADER, ISAAC S. BELCHER, A. L. RHODES, RICHARD BAYNE.

For Defendant,

J. K. BYRNE, W. C. BELCHER, S. M. WILSON, W. T. WALLACE, A. B. DIBBLE, A. P. CATLIN.

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In the Superior Court of the State of California in and for the County of Sacramento

The People of the State of California
vs.
The Gold Run Ditch and Mining Company

Afternoon Session
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Winfield J. Davis
Official Reporter

In the Superior Court of the State of California in and for the County of Sacramento

The People of the State of California vs. The Gold Run Ditch and Mining Company } Afternoon Session Tuesday Jany 3/82

Testimony of H. P. Knight

Called for defendant Sworn

Mr. Catlin. What business were you engaged in from 1856 or thereabouts to 1879?

A I was Superintendent of of the Natoma Company's Canals

Q. At what place?

A At Folsom.

Q. Did you have occasion

8155 to measure the amount of

running water in the American River in the summer season of 1866? A. I did

Q. State in what way?

A. I had the water in a flume - all the water of the river in a flume and made a careful measurement of it

Q. At what place?

A. A place known as the Water Power dam, about 8000 feet more or less above Folsom

Q Was all the running water of the river carried through the flume there?

A Yes, all of it

Q And you measured it at that time? A Yes sir

Q State whether you measured it closely or accurately or not?

A I measured it very carefully I made quite a number of measurements to determine carefully the amount of water there was in the river

Q And what was the amount that the river then carried?

8156

A. There was about 210 cubic feet a second

Q. Can you state how much more or less that river carried say in the summer season of 1881. What means of judging have you?

A I did not measure it in 1881, but I should judge that it carried possibly 1/3 more than that, not much more than 1/3.

The Court What was the date of that measurement?

A 1866

Q What part of the year?

A It was the 15th day of September

Mr. Catlin State what was doing there, that occasioned the measurement? A. The Company were putting in the foundation for what was known as their Water Power dam, they had the water all turned into a flume and were excavating the bed-rock for the purpose of laying the foundation on the bed rock and of course it was necessary to get the water out of the way and they had it in this flume and while it was being flumed, I measured it and I measured it carefully for the purpose of determining the amount of water that could be depended on for manufacturing purposes at extreme low water

Q Is that below the junction of the Middle or South Fork with the North Fork of the American River?

A Yes sir, that was the main stream, on the main stream about a mile below the junction

Q How far is the point where the foundation for that dam is laid from the junction?

A About a mile, a trifle over

Q. Now in what way — What opportunities did you have for ascertaining the amount of passing through in the summer of 1881 last summer day, in the same month of the year, September?

A. I was not there until the 1st of October and then I commenced the survey on the Canal and was on the river every day and I had water marks. — I had points on the river from time to time every season up excepting 1880. I did not take an observation in 1880 — In 1880 I took no observation at this point where the water dam is, but in 1881xx I was there again and I noticed about the hight of the water that was on the rocks, and there were certain stones of a dam that were in there that stood out of the water, I noticed the hight of the water on those stones

Q. Was there much difference in the water in September and October? A. There was always a rise, the days grow longer and the nights cool and there is a rise of water about the 1st of October, a slight rise

Q Well, how much of a change, is that?

A. It depends something on the season, but the first rise is generally very slight.

Q How much did I understand you to say, that you judged there would be say, in September 1881?

Mr. Hart. He did not see it

A I did not see it until the 1st of October

Mr Hart. I object to that.

Mr. Catlin. If he saw it in October and it had slightly risen I want him to compare the two. If it had risen it must have risen before October. He said there is a general rise before the rains commence.

The Witness Usually a slight rise. The river fluctuates all summer a trifle, up and down, up and down, there is a rise and fall, an ebb and flow all summer long. in the river, in the Natoma Canal there is an ebb and flow regularly Every 24 hours

Q You say that is a slight Change that occurs during the summer?

A Very slight, it is only observed by those who have charge of the water and are very particular in observing it

Q Now then, in October 1881, when you observed it at the point where it crosses the dam, the Water Power dam, how much did you estimate it carried at that time, in October last?

A I do not think it was over one half more where the water stood on these rocks that were laid in the dam

Q One half more than in 1866?

A In 1866

Q That would be about, a little over 300 feet?

A Yes sir

Q. You were engaged in Excavating for the foundation of this Water Power dam in 1866?

8161 A Yes sir

Q. I wish to ask you what was the character of the deposit in the river at the point where the excavation was commenced?

A It was loose gravel.

Q Loose gravel alone or loose gravel and —

A Well, gravel and sand and some cobbles, not very large ones though.

Q To what depth was that deposit? A The first excavation made was about 16 feet and a rod was thrust down 13 feet more, what is called a runner drill, it is known as a runner, a churn drill, thrust down 13 feet further.

Q For what purpose was that? A. Of ascertaining if possible the depth to the rock and also the character of the material below it.

Q You found there this 29 feet of deposit of gravel and sand? A Yes sir

Q. Well, did they put the dam at that place?

A No sir, they moved it up the stream

Q Up the stream?

A Yes sir

Q At a point where there was more or less of this deposit?

A At a point where it was known, the bed-rock was, and how deep it was to the bed-rock

Q. How high was that dam built there in the fall of 1866?

A 36 feet.

Q 36 feet high from the bed of the river?

A. From the bottom of the river at its lowest point

Q. State whether it has remained there ever since?

A Nearly all of it, the high portion is there

Q Well, is the low portion there, too? A. It was not all of that depth, but that portion in the deep place remains there; on the one side where it was shallow where it is 2 or 3 feet deep, some of the rocks have gone out

Q. Some of the rocks on what portion of the dam

A. On the top, the west side

Q. The top of the west side?

A Yes sir; but the right side of this west portion, the rocks are there in place, the top rocks and all, nothing is moved.

Q. What is the grade of the river from the point of that dam down to where the wire bridge crosses it near where the old railroad bridge used to cross?

A It is about 40 feet

Q. That is the fall of the river that distance?

A Yes sir

Q. What is the distance?

A 8430 feet

Q. What is the grade of the river from the dam up to the junction of the North and South Fork?

A. 15 feet.

Q. And that distance you have already stated was a little over a mile?

A Yes sir

Q. From where the wire bridge now crosses the river what is the grade of the river up to the point known as the Devils Elbow?

A Well, it has no grade at low water, the water is still. Just fairly moves, back water.

Q Then that 40 feet grade is between the point known as Devils Elbow, and the Natoma dam? A Yes sir

Q State whether there is anything remaining in the bed of the river there indicating any old mining operations there, near or say about the dam?

A There is a foundation of a mining crib, that was put in in 1865 standing there

Q. What is a mining crib?

A. Well, it was boxed a-
8165 round of boards, a sort of

Sheet piling

A For what purpose? for a dam? A It was the tail end of a dam, and on that rested the bearings of a wheel for pumping

Q You say there is a crib, that was put in there in 1865?

A Yes sir

Q. And it was a part of a dam, as I understand you?

A Yes sir

Q For mining purposes?

A Yes sir

Q. By whom was it put in, what company was it?

A Mr. Sphinx was the owner of the claim, and ~~I think~~ it was put in under the direction of a man by the name of John Smith who has since died

Q. Sphinx's claim?

A. Yes sir, Sphinx's claim

Q For what purpose?

A This dam was put in, to turn the river, what is called a wing-dam

Q. A wing dam for what purpose?

A. For mining purposes.

Q. You say that crib remains there till this time?

A Yes sir, that is, the lower portion of it, the foundation of it

Q. State whether you have observed whether or not the current and volume of water in the American River at its low stage generally has decreased or increased since 1866?

A I think it has increased

Q State whether that increase has been gradual or not, or whether it is chargeable to any one particular year?

A No, I think it has been gradual and it has increased more particularly in the last 5 or 6 years.

Q. State whether you are acquainted with the bed of the river in the South Fork branch of the American River from its junction up to the head of the Natoma Canal? A I am

Q Are you well acquainted with it? A Yes sir

Mr. Hart. Is the Natoma Canal in the South Fork?

A. That is the mining Canal

Mr. Catlin The mining canal I am speaking of, not the Water Power Canal; that starts lower down in the American River — State whether there are any large bars in the river or not, and if so describe them in the South Fork?

A There are four permanent bars in the river, that is they have formed since 1867

Q All of them have formed since 1867? A. Well, the greater portion of them — part of them — two of them have all formed since 1867 and the greater portion of the other two

Q State their extent and character? A The first one is just above the mouth of the Sweetwater, Salmon Falls, about 3/4 of a mile long and 200 feet wide and about 10 feet deep

Q. That is the mouth of Sweetwater? A Just above the mouth of Sweetwater

Q What is the Sweetwater?

A That is a creek that comes in at Salmon Falls, at the village of Salmon Falls

Q It comes into the South Fork?

A It comes into the South Fork

Q Now state about that bar. You say it commenced forming in 1867? A In 1868, after the flood of 1867. I should have said 1868. It commenced forming after the flood of 1867

Q Well state, whether it has increased or diminished in extent since that time?

A It has increased steadily and continually

Q Gradually increased up to the present time so that it is now the extent that you mention?

A Yes sir, I noticed it this last season, it is extending up the river every year a little more and more.

Q. State what other large bar

there is on the South Fork?

A The next one is at the mouth of New York Ravine, a prominent bar.

Q. Below or above the first one? A. Below, about 2 miles or 2 1/2 miles below

Q At the point where the New York Ravine comes in?

A Where the New York Ravine comes in

Q Well, what kind of a bar is there, there?

A Well, that is about 400 feet long, 100 feet wide to 200 and about 12 feet deep

Q When did that bar commenced forming?

A Well, that has formed since the flood of 1862

Q State whether that has increased in size or not?

A Yes sir, it is increasing slowly not so fast as the other one though

Q. It has slowly increased?

A Yes sir

Q. Well, state going further

down the river where you next observed large bars?

A The next bar was of about the same size just below it on the north side of the river on the opposite side just below it about the same size but about 20 feet deep.

Q When was that formed?

A Well, that has come in the greatest portion of it since 1870, it commenced forming though after the flood of 1862

Q It commenced forming after the flood of 1862 and has increased gradually every year more or less?

A Yes sir, it has increased very fast from 1875 and 1876 and so on from that time up.

Q Where next down the South Fork do you find a bar?

A. From there are Canons and it is narrow and swift and the next bar is where old Mormon Island is

Q. Well state in regard to that

whether you had frequent means of observation and how it grows and increases?

A Well, it is increasing by rising and filling over the top of it at high floods. I notice that it gets higher and higher each year

Q Each year it gets higher?

A Yes sir, it does not increase in size but is rising

Q. That is you mean the area, the extent of area?

A No sir, it gets higher — the bar gets higher

Q State whether that is a gradual increase?

A Yes sir, it is gradual — after every flood I see it gets a little larger

Q Now state about deposits in the river abreast of the town of Folsom. First state how wide the river is at that place where these deposits are situated?

A Opposite the town of Folsom?

Q. Yes sir A. Well, the channel there is about 1000 feet more or less.

Q State how much that has increased in depth, their deposits there since you first knew it?

A I measured it in 1867 and I measured it again last evening and it has filled 12 feet

Q You are speaking now of this general raise, are you. That it has increased 12 feet in the general raise?

A Well, it has increased 12 feet at the old Lincoln Railroad Bridge, and below that it is increasing proportinately more, perhaps 14. There was a riffle immediately below the railroad bridge of about 2 feet and of course that is all gone

Q. State whether that increase has been gradual or not?

A That is a regular, gradual steady increase, built up year after year

Q. Are you acquainted with Alder Creek? A Yes sir

Q. Can you state generally about what its grade is, take it as it is now?

A. Well, it will average I think near about 20 feet to the mile

Q Starting from what point?

A. Starting from the river, taking the average from there to Prairie City

Q Starting from the river up to Prairie City, it will be a grade of how much?

A About 20 feet to the mile

Q Will you state what you have observed in regard to quartz being found in the gravel formation of that section of the country generally?

A Well, there is quartz all through it

Q. In what form is it to be found? A In the form of pebbles and cobbles and sand — from sand up to cobbles

Q Well, state how generally it is found — how extensive?

A. It is found Every where, where ever you find gravel. I do not believe that you can find a square foot of gravel anywhere but what you can find quartz pebbles and cobble stones

Q. State how it is on the natural surface that has never been disturbed by mining or agriculture? A. Wherever you find gravel on the surface there is some places where there is a red loam, small spots that you wont find it, but you find sometimes quartz in that, but wherever the gravel comes to the surface anywhere there is quartz all through it Every where

Q. Are you acquainted with Farmers Diggings? A. Yes sir

Q. Did you ever do any work there? A. I mined there

Q. Will you describe the bed-rock that underlies the formation of the surface of the ground at Farmers Diggings? A. It is a coarse, close sand rock, not very hard a man can cut it with a pick, in spots it is quite hard so that it is defficult to cut with a pick, in other spots you can cut it very readily but it is a coarse close sand rock

Q. How high above the water of the river does the bed rock lie?

A Well 20 or 25 feet more or less. There are places where the high flood has gone up onto it and there were portions where the high floods never reached the bed-rock

Q How deep is that bedrock?

A I dont know, I never went through it

Q Well have you known of any cuttings into it?

A From cuttings that have been made in other places, I conclude it is about 28 feet

Q State whether it extends below or above the river?

A Yes sir, it extends under the river

Q. Are you acquainted with Buffalo Creek? A Yes sir

Q. From its source to its terminus? A Yes sir

Q. How well acquainted with it, are you? A. Oh, I have had occasion to go over it in all its parts, time and time again

Q. State what uses have been made of it by the Natoma Water Company?

A. They used all the upper portion of it as a canal, running water into it, running water in toward the head of it, and then taking it out further down again

Q. State if you know, what effect that creek has upon the wells in that vicinity?

A There are some wells that the creek supplies with water — some wells derive their water from the creek. When the creek was dried up, and the ditch was taken out of the creek, the wells are dry and when the water was turned in again then there was plenty of water

Q What wells were affected that way? A. Nuttles well on the old Hill place, and one of Saulsbury's

Q Point on this map to the Court where Saulsbury & Nuttles wells were situated, and where John B. Taylor's place is situated? A. Here is the Saulsbury's station and this is Nuttles just where the road crosses the creek. The road is right on the bank there, where the road crosses the creek. Saulsbury's is here on the railroad (referring), he had two wells on the back here, and one down here toward the place where his horses are watered

Q What distance are they from Taylor's place?

A A couple of miles. Here is Saulsbury's on the south side, and Nuttles on the north side, and Taylor's is here.

Q. Is it 2 miles, or a mile and a half by that scale?

A. Well, it will not be more than a mile and a half from Taylors & Saulsburys

Q. How long has that Buffalo Creek been used in that way by the Natoma Company?

A Since 1865.

Q That was when you first knew it? A Yes sir, previous to that time it had been used for that purpose by the Westinghouse Company, the Prets and Ralston ditch. Previous to that time the water of the Prets & Ralston ditch, the Westinghouse ditch went down the creek

Q Previous to 1865?

A Yes sir

Q Where did that ditch come from the Prets & Ralston ditch?

A It brought water from Deer Creek and afterwards took the water from the Eureka Canal to Diamond Springs by way of Clarksville

Q. And discharged into Buffalo Creek?

A And discharged into Buffalo Creek

Q State whether you are acquainted with the country right back, south or southeasterly from the neighborhood of the 15 mile House on the Placerville Road? A Yes sir

Q State in regard to the water there how near the water comes to the surface there?

A You go about a mile South-East of the Fifteen Mile House the water came out to the surface. There were springs there by what is known as Bryan place, W. E. Bryan's place, the were springs there that did not furnish quite enough water and he sunk about 15 feet and got a full supply

Q From your acquaintance with that country can you state how the water is supplied to the wells on Taylor's Ranch? A Well, I have my own idea as to how the water comes there, I never followed it up underground.

Q State what it is?

Mr. Hart. I object to that as incompetent unless he shows that he has done something to enable him to form an opinion.

Mr. Catlin. State first fully upon what your idea that you say you can state, is based, what knowledge?

A In the first place on the general lay of the land and the manner in which water comes to the river and in the second place, that no well of the depth of Taylors on the north side of Buffalo Creek, would hold water when the water was shut off from the creek.

Q. When it was shut off from Buffalo Creek? A Yes sir

Q. None of the wells there above him would hold water?

A. On the north side wells of that depth, they had to be sunk a great deal deeper to hold get water. Nutter had to go down finally with his, I dont know how much deeper but a great deal deeper to get water. Nutter well was about the same depth as Taylors, 40 odd feet, and they had to go down and all on the north side on that bench had to go down for water

Q. Well, about the use of the land to the East of Taylor and to the South?

A. It rises to the north and to the East, and rises somewhat off to the South, too

Q. State how near to Alder Creek the hills are generally, that Alder Creek ridge. State its course and where it runs and how near it is?

A about 3 miles or 3 1/2 miles to the bluffs.

Q. What is the general Elevation of that range above the bottom lands where the rail road runs? A Les si

Q What is its general Elevation, those hills?

A. Well, its general Elevation at Alder Creek is about between 60 and 70 feet

Q Above the railroad?

A Yes sir.

Q. Not more than that?

A No, not its average Elevation. There are points that are more than that

Q Speaking of the average elevation. You have stated that the water came near the surface or to the surface to the south of Taylor, about how far south is that?

A. It is a mile and a half beyond the Fifteen Mile House at W. E. Bryans place

Q. Well, upon your acquaintance with the Elevation of the country there and the situation of the river and of Alder Creek and all your acquaintance with

Q State in your opinion how Taylors well, is supplied with water, from what sources

Mr. Hart. I do not think that is competent it is a mere guess

Mr. Catlin I think it ought to be quite as competent as Mr. Taylors Evidence that he thought it comes from the river

A. I think it comes from the north and East from the high land beyond and also from the sipage of the Natoma ditch and those high lands. I think all the water all through that country, comes from there

Cross Examination of H. T. Knight

Mr Hart How much does the American river ebb and flow at the point that you mentioned in your direct testimony?

A We never measured. We never measured the ebb and flow there, we noticed it in the mining canal from the South fork

Q Where is that point?

A On the Main mining canal

Q How far above the City of Sacramento?

A 27 or 28 miles

Q How much?

A 27 or 28 miles

Q How far above Folsom?

A Well possibly it is further from Sacramento along the line of the dam and in down

9 miles above Folsom and from there on down to within 4 or 5 miles of Folsom, clear down to the lower end of the Main Canal where the water is first taken out

Q You say it ebbs every 24 hours? A It rises and falls.

Q How much is the rise? A At low water in the Summer it is not over an inch.

Q At high water?

A During high water you cannot notice it, you can only notice that after the Spring freshets have passed, the snow is melting in the mountains, and it grows less and less, along in July and August it will be two or three inches

Q Where have you lived Mr Knight since

1866? A I lived at Folsom till 1879 and then I moved into San Joaquin County

Q Have you been living at Folsom any since 1879?

A My residence has not been there

Q How much of your time have you spent at or near Folsom or on the American river since 1879? A I have been there 2 or 3 times a year until the present year and this present year I have been there since the 10th of October I was also there in June and staid awhile this year

Q How did you take the measurement in 1866 of the amount of water that was flowing in the river?

A I measured the width and depth of

the flume and took the average speed of flow

Q How did you arrive at the speed or velocity of the water?

A I took a tin~~e~~ tube that was perfectly straight and uniform in size, a hollow tube and loaded it with sand till it would flow through the flume within half an inch of the bottom and then I sent it floating, I don't know ten or fifteen times and took the average speed for 100 feet so as to get the average speed, the bottom and top speed

Q It would float within half an inch of the bottom?

A Within half an inch of the bottom. I sent it through and experimented on it until I had just the right amount of sand in there to hold it just at that depth

Q How deep was the water in the flume at that time? A The water was about <referring> — I do not know but I have brought the wrong book but it was about 21 or 22 inches

Q This tin tube that you speak of, was it closed at both ends? A No sir, open at the upper end

Q It is closed at the upper end and filled with sand? A It is open at the upper end and closed at the lower end

Q And filled with sand? A Weighted with sand, filled with sand until it drew it down to the proper depth

Q How did you manage to induce it to float without spilling the sand?

A The sand was in the lower end of it and its own buoyancy held it up straight

Q Was the water clear at that time? A No

Q Could you see the tin tube floating in the bottom? A No

Q How do you know that the tin tube at that time was floating all the time or was not obstructed by its striking the bottom?

A The moment it touches the bottom it would jump. The slightest touch at the bottom would make it jump.

Q Well now it would not jump to the top of the water would it?

A No but it would make it jump so you could see a sensible spring, the moment it touched the bottom the lower end would be retarded and the front end would spring forward. In making my weight right I would see it bobbing and bobbing all the way through and then I marked just about how high the water came on it and I took out a little sand and sent it out again and then I saw it bob and then I took out a little more sand until it would flow smoothly through without touching the bottom

Q At that time do you think that gave the velocity of the stream?

A I think it did

Q Did you ever hear of the velocity of a stream being taken in a way like that?

A No sir

Q Why would not a floating substance in

the top of the water give you the velocity more accurately?

A That would only give you the surface velocity. It would not give you the average velocity

Q You were taking then the bottom velocity?

A I was taking the bottom and top. I was taking the average

Q How long was that tin tube that you speak of

A It was about 2 feet the end of it came out of the water so that there was no danger of drawing water into it

Q You could see the head of the tube? A Yes sir It was out of the stream all the time

Q Do you think that a tube that is put in a volume of water in that way will go as fast as the water does?

A If it floats with the water it will

Q If it floats in the water? A If it floats in the water, if it meets with no obstruction the water carries it and consequently it goes as fast as the water?

Q Why is it if the surface of the water was going at a rapid velocity, going with greater velocity than the lower one, that the upper portion of that tube would not obstruct the passage of the lower portion or the lower portion obstruct the passage of the upper portion?

A The deep portion would go slower than the surface, the velocity at the top is faster than the lower velocity so that it would average the velocity

Q What was the velocity that you got there?

A I forget, I may not have brought the book with me that I figured in and I had two just alike, and taking them off the table, I took the wrong book.

Q Did you figure the velocity yourself afterwards? A I did.

Q How did you figure the velocity - not the velocity but the quantity?

A I took the transverse sectional area that is the depth and the width and multiplied it by the number of feet which this made per second and reduced that to minutes

Q Is there not a means by which you can accurately determine the velocity of water other than by allowing a tube to run through it?

A You can put a surface float on and get the surface velocity and then take 80 per cent and calculate it, that is the rule given in the books generally

Q Did you compare your result with that of that rule? A not in that case but I have in other cases

Q Did you find your result was correct?

A Well it was as near as you could come in that kind of measurement

Q You say there were 210 cubic feet per second? A Yes sir

Q How many miner's inches would that make per second?

A I do not know what you call a miner's inch

Q Or per day?

A I do not know what

you call a miner's inch

Q I call it a miner's inch. It has a well understood meaning I understand and you are running a water canal and you have been Supt of a mine up there and you ought to know what that is?

A I have run water for four or five different Companies and am familiar with the practices of three or four more and I do not know of any two that use the same measure or use the same miner's inch

Q There is not much accuracy about a miner's inch then?

A Where I have been acquainted with it in El Dorado & Sacramento and the lower part of Placer County

Q A man measuring

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water that would undertake to test the number of inches running through a flume and take it by actual scientific measurement would find himself differing very much from the ordinary miner's inch as measured by the miners there?

A It will depend on what he calls a miners inch

Q What they call a miner's inch?

A Who?

Q The Mining Company

A What Mining Company?

Q Any of them - if they do not agree there is no accuracy, there is there?

A Well, the Natoma Co. have one or two measures and the Eureka Company have two measures and the South fork Canal, that is the Placerville Company had two or three

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different measures and I have been puzzled to know what a miner's inch was

Q Your theory is that a miner's inch don't mean anything particularly?

A So far as my observation has gone it is about equivalent to a piece of chalk I only go by my own observation

Q According to the Natoma Company's measurement how many miner's inches would 210 cubic feet per second make?

A Well if you measure it closely, you can figure it yourself, it would be about 1.76 or 1.70 cubic feet per minute

Q 1.70 cubic feet per minute? A So the inch, that is measured closely, but if it is measured in the way it is sold to miners, as it is usually sold it will go 2 cubic feet to the inch.

Q You say that it was in the 1866 and in the month of September that you took this measurement? A Yes sir.

Q You did not see it in the year 1881 until the first of October?

A No sir

Q Was it the 1st of October or the 10th?

A It was the 10th to be accurate

Q And at that time you say there was about one third more running in the river than there was in September 1866?

A From one third to one half as near as I can estimate - from one third to one half more as near as I can guess at it

8199 Q You took no measurement

at that time? A I took no measurement

Q Upon what did you base your judgment in 1881 in making the comparison between the two years?

A By observing the flow of water over the falls along above Folsom through the narrow cut there and also observing it as it passed what we call the water power dam

Q Well there have been changes made in the bed of the river have there not?

A not there

Q not where?

A On these falls

Q There has been at the dam which you speak of a change has there not?

A There has been a slight change at the

dam but at the falls none

Q Not any at all?

A Well, only what the hardest kind of trap rock would wear out by sand but there has been no perceptible change

Q None that you could notice? A None that anyone could notice

Q In these several years? A No sir it flows through a cross dyke of the hardest trap rock imaginable

Q That is fifteen years between the two times that you compare?

A Yes sir

Q In 1866 where did you take out the water that you measured?

A Where did we take it out on the river?

Q Take it out into the flume A We took it out about 100 feet above the Natoma Company's dam

Q It is at the dam that you compared? A Yes Sir the river at the dam and above the dam; ~~the~~ below the dam at the river there is a narrow deep cañon

Q Did you have anything to particularly call your attention to the condition of the water in these several places so that to day you could go to any one of these places and point to a place to which low water reached in 1866? A I could very near — I could not absolutely as close as you would measure a board with a square

Q You have had nothing to refresh your memory during the last 15 years on that subject?

A No sir only my observation sometimes 15 or 20 times, sometimes

150 times a year

Q Your general recollection?

A Yes sir

Q Was there any mark on the bank or any feature on the bank that attracted your attention as being the mark of low water? A There were other points, the old Stockton dam where the old dam would burst through

Q That is in 1866?

A We lifted it out. It was where it had burst through in 1867; after the year 1867 we took it out and there remains there some stones across the channel of the river

Q They were not there in 1866? A They were there not in 1866 but in 1867. There was also a narrow gut in the river about 150 or 200 feet below there where they used to put a plank across in the Summer time and walk across it and there were points of rock in there that I used to take observation of

Q That was a point that was above the water of course — where the plank was was above the water?

A Above the water.

Q. Your estimate of these things is based upon your general recollection without any accurate measurement being made of the distance between the low water mark and any particular point — your recollection through a period of 15 years? A Yes sir

Q You say there was always a rise from September to October in the river and that the rise varied with various Seasons? A Yes sir we always look for a rise about that time

Q Your estimate of the difference between the amount of water running during the Summer Season of these two years, is of the amount in September 1866 and October 1881? Is that the fact?

A Yes sir

Q What kind of a drill was it that you ran into the bed of the river in 1866?

A Well it is what the quarry men call "a runner"

Q What is that; describe the instrument?

A It is a long piece of steel pointed like a drill that they use for a churn drill. After they have drilled with hammers for a certain depth it becomes slow and they take it out

8205 and put in a drill and

two men churn it and put in deep holes

Q Do you bring out the substance that you displace? A No, not at all, but the drill went down were readily, we could tell by the feeling of the runner that it was going through gravel and cobbles If you would strike sand or soft substance it would slide - we just worked it down, we did not use the hammer at all, we worked and worked it down 13 feet, it is a sixteen foot runner and we worked it down 13 feet

Q I thought you ran down some 25 feet?

A No we sunk 16 feet and then ran down 13 we excavated 26 feet where we put the dam but this was in the first location before we started to put it in

Q You first drilled and then afterwards made your excavation?

A No sir we made the excavation 16 feet and then ran the runner down 13 feet further and found no bottom and then the men who had charge of it got frightened and moved up the river about 150 feet to another location where they knew the depth of it and at that location they excavated in the deepest place 26 feet for the foundation

Q The depth of the gravel and bed rock in these rivers or in that river varies in different places and always has has it not since you have known the river?

A Yes sir

Q In speaking of this

25 feet of gravel and sand you speak of it as a deposit? A yes sir

Q From mining?

A I did not say what, I do not know what, I presume from mining

Q You do not know when it was deposited there? A no sir

Q It was there when you went there?

A I presume so. It might have been, still I have my ideas with regard to it and I doubt it. I have an idea it goes down every winter and ~~and~~ fills again as the water comes down in the Spring I think in every big flood in that Cañon it rakes it clean and then fills in the Spring

Q Have you noticed such process as that going on ~~in the Spring~~

at Folsom: cleaning out the river, scouring it out each year and filling it as the water comes down? A No sir you cannot see it, it is under water

Q You have spoken of it as a fact?

A I have concluded it to be a fact, it is a conclusion. I do not state it as a fact but as a conclusion

Q From what have you concluded that that is the fact?

A From the fact that these channels are ploughed out by the water and if the water at one flood goes to the bottom it does at another flood

Q Do you know of any flood where it went to the bottom?

A No sir I presume at every flood. There is another fact: that where we went down 26 feet it was all loose gravel we found not a particle of solid deposit, and where the bottom of the river is not disturbed for any length of time the deposit hardens and becomes impacted and in fact the Chinamen had this excavation made hoping to find hardened and impacted earth with gold in it and they did not find it, it was all loose gravel where they went just as if it had been filled in a week before For that and other reasons I conclude that large floods scoop the Cañon clean

Q Where is that Cañon did you say, how far below the 'South fork'?

A About a mile, a rifle over

Q You spoke of the grade of the American river from the mouth of the South fork to the dam?

A Yes sir

Q How much did you say that was?

A 15 feet

Q And 40 feet from that on down to what you call the bridge?

A Yes sir to the bridge

Q Did you ever take the grade of the river?

A Yes sir

Q How far up and down the river?

A I took it from the bridge to the junction, what we call the junction of the North and South forks

Q Did you ever take it further down or further up? A No sir

Q The river is very

much steeper in other places than it is there is it not? A No, that point is one of the heaviest falls there is in the river any where in that vicinity.

Q That is near Folsom?

A Yes sir. That fall from what we call the old Stockton dam to Devil's Elbow, one of the heaviest falls of any where on the river.

Q How much is that to the mile? A Well it is 35 feet in about a quarter of a mile.

Q Thirty five feet in a quarter of a mile? That is a very heavy fall. I understood it to be 15 feet to the mile?

A No sir 15 feet to little over a mile from the dam over to the junction and 40 feet from there down

Q How does the river continue from there down to Folsom about the same fall?

A From there down to Folsom the grade is very much less; it is very light

Q You spoke of the foundation of a mining crib. What is the foundation of a mining crib?

A Well they put in the crib and the water has broken off the top and left the bottom of it all in there and the sheep pilings stand up there at low water, you can see the sheep pilings standing there

Q Is that what you call the foundation?

A That is what I call the foundation

Q The parts are still there?

A They are still there

Q How long have they

been there? A They have been there since 1865

Q The floods have not washed them out?

A They would not have been there if they had

Q Now what is it that has held them there? A The gravel compacted around them and the grade of the river is not sufficient to cut them out

Q Is that where the river runs 15 feet to the mile?

A yes sir that is where the river has a little more grade

Q How long has the dam been there?

A Since 1866

Q The dam has been there nearly ever since the crib was?

A The crib was put in before

Q The dam prevents

8214

the very heavy flow of water running against this crib does it not?

A No sir the dam does not prevent it but the narrow Cañon below stops the water back in high floods and prevents the water damming there at extreme high floods

Q That is the water runs above it? A Well, the heavy current runs above it I think, I conclude so but still at all medium floods such as you had last Winter the water has a direct attack upon it

Q What is the reason that you think that the water in the American river at low water has increased since 1866?

A That is my observation

Q Where does this water come from that increases it at low water?

A I presume it comes from water that is saved back by the mining Companies, held back in their reservoirs and used in the Summer.

Q They are letting more water run now than they used to? A Yes sir I think so

Q You think the amount of water that runs down is due to mining during the Summer Season?

A Yes sir

Q Your observation upon that subject, as you stated before—

A <Int'g> This is only conclusion. I do not know anything about it, I do not know anything about where the water comes from; I only know of the fact that from my observation I think the river is increasing

Q Your observation upon this subject in relation to other years is the same as it is in relation to the years 1866 and 1881?

A I do not understand the drift of the question

Q I say your observations have been of the same general nature in relation to all the years excepting 1866? A Yes sir

Q That they were in 1881 – that is a mere general observation without any measurement?

A Without any measurement.

Q Without any test?

A Yes sir

Q Do you remember of any year since 1866 and before 1881 when you looked at the river with a view of determining whether or not more water was running that year than had run the year before? A Almost every year I have had occasion up to 1879 to observe it closely at low water

Q Have you always looked at the same points with a view of determining it?

A I have always looked at these falls above Folsom

Q How much deeper was the water over those falls in 1869 than 1868?

A The water runs over these falls in a swift, natural channel

Q How wide? A Well it is very irregular. In places it is not over 6 feet wide, not over 6 or 8 feet wide

Q Do you remember how much deeper it was any one year than it was another? A I did not measure. I only made the general observation where the water went through and that I came to the conclusion that the water is increasing. I also noticed in the South fork in a general way that the water was increasing, in the South fork particularly, the different years vary, some years have more water than others

Q These several bars that you have noticed on the South fork do you know from what they have been formed?

A From what they have been formed?

Q Yes sir

A You mean where the gravel came from?

Q Yes sir A I do not

Q Well — A (cont'g) I say I do not

Q You do not know?

A I do not know

Q You do not know

whether they came from mines above there?

A I presume so

Q What is the general nature of the gravel that forms those bars?

A It is similar to mining gravel

Q Composed of quartz sand and mining gravel?

A Yes sir

Q Is it not true that those bars occasionally washed out and filled up again?

A These that I measured have not washed out since it formed

Q Each year they are larger than they were before? A Yes sir

Q That is the basis of your conclusion is it not?

A Yes sir

Q It might be true that each year they formed larger bars by more extensive mining may it not? A Formed larger bars by more extensive mining?

A Yes sir. Each year the bars are washed out and a larger bar formed on account of mining being more extensive and the deposit greater.

A No sir

Q That could not be ~~greater~~? true? A No sir. It might possibly be true. It is possible but not probable because it is not probable that the bar will take the same shape each succeeding year. This bar remains in the same shape

Q Does no portion of it wash off?

A I do not conclude that any washes off

Q How high are they above the level of the river at this time?

A At this time now?

Q Yes sir A Well

I do not know just how high the river is I have not been there

Q well above the level of the river at low water?

A well they are four or five feet

Q Five feet above the level? A yes sir 5 or six feet

Q Are they over in the curves of the river?

A yes sir

Q Where eddies are in the river? A They are formed where there was deep water. After 1867 it was right on the line of the old Georgetown road where the ferry boat used to cross and where the ferry landing was. where the water was 5 or 6 feet deep in 1865 and now the bar is 4 or 5 feet above where the water was

Q The sand bars formed

8272

where there were eddies in the river?

A Well I do not think so. I think the bar is formed and pushed the channel to the other side of the river. The current of the river has passed somewhat over to the other side.

Q Did you ever make any measurement of these bars? A Only in a general way; walked over them.

Q Walked over them?

A Yes sir

Q Did you ever in any manner measure the depth of them?

A Only approximately in one place.

Q Where was that?

A Where the old ferry boat landed after the flood of 1867 I measured the depth of the water and I know how deep it was then and I know high the bar is now.

Q But at the other points you do not know how deep the water was or how deep the sand bars are, only as a matter of judgment? A No sir only it was a broad place and the river was very uniform. The river ran into this side where the bar is. and the river is over on the other side now

Q Did you ever take any soundings?

A Where the boat landed I did, on the line of the passage

Q But at no other points?

A No sir. This was a still place and the water was if anything deeper; as you went up the river it shoaled down

8224 Q Do you know whether

those bars formed in the Summer or Winter time?

A They formed in the Winter or Spring

Q Did not they commence forming in the Summer when there was but little water, that is when the water was running slowly?

A Whenever the water was low and run slowly they were out of the water

Q Before they formed?

A No sir. The first year a portion of them was out of the water, and this was formed of gravel and low water would move it.

Q How far are these bars from the mining claims above? A I do not know where the nearest mining claims were above of any extent

Q There is mining all along the river is there not up there? A No sir, perhaps you will see a Chinaman now and then with a rocker, but you would not find a sluice there in miles

Q Has there been any mining there since 1860?

A Not of any account.

Q And the great proportion of the mining that was done was done a great distance above there? A Yes sir, I conclude so

Q Above all of these bars that you speak of?

A I conclude so yes sir.

Q Are any of these bars at or near any old mining dumps?

A There were no gravel banks of any amount there anywhere along on the river at all. There was a little surface mining 3 or 4 feet deep and some loam bank

8226

on the opposite side of the river 8 or 10 feet deep but no gravell banks or no hydraulic mining or anything like that.

Q No large mining?

A not on that portion of the river

Q The mining up in that Country was very much like this about Folsom was it not? A No sir there were no gravel banks out from the places I speak of, no gravell banks at all

Q What were the banks composed of mostly?

A well the bedrock came up on both sides, there was little light loam banks on each side where they mined off 2 or 3 feet deep for a little ways that was all and a little surface mining back on the sides of the hills, the bedrock

8227

came right up, the bare rock

Q When did you first notice the deposit in the river opposite the town of Folsom? A When did I first notice it? I noticed it when I first came in the river

Q In 1866? A In 1865

Q And how deep was the deposit at Folsom at or near Folsom at that time? A I do not know

Q This 12 feet deposit that you speak of has been made since ~~that time~~ you went there?

A Yes sir

Q In addition to the deposits that had already been made there?

A Yes sir

Q During the time that you have been there have you had occasion to notice whether or not sand is constantly coming down the river during times of flood?

A. Yes sir sand all mixed in with it. This deposit is composed of more or less sand, I have noticed that the water was muddy

Q Did you ever notice sand in it? A Well I do not know that you would call it sand, you would call it quicksand.

Q A great deal of it was there not during those years? A Well I do not know what you would call a great ~~many~~ deal. A man that was used to seeing it would not call it a great deal

Q That is owing to who looks at it? A Yes exactly

Q We down here would call it very thick with mud I suppose, and you up in the mountain country would not call it thick unless there was a good deal of mud in it I suppose?

A Well there was considerable mud in it Yes sir

Q That mud if allowed to settle showed signs of considerable sand?

A Yes sir, there was quicksand in it, not what I would call sand I do not think I ever saw what I would call sand settled out of it.

Q Settled down?

A Settled out of the water. I have seen the water taken up and settled in a bucket at the Company's quarries below the dam, we used it for drinking water. In the granite quarry we used it for drinking time after time

8230

and bucket after bucket and never saw any sand in it. I call it quicksand it was a slum you might say

Q That was 1879?

A yes sir

Q Have you noticed whether or not the filling of the river at Folsom has been growing more rapid, more each year than the year before?

A It has for the last few years but there is a local reason for that

Q I will ask you, have you noticed whether or not it is a fact that when water comes down the American river during the first freshets it comes very rapidly, faster, more rapidly and with greater velocity than any other freshets? A No I have not noticed it

Q And the rise in the Sacramento river?

A No sir the rise in the Sacramento river don't affect the river at Folsom

Q It don't affect it up that high? A No sir

Q Have you noticed whether or not each year when the water comes down at the first rise it cleans out the bed of that river at that point _ at Folsom?

A. Where the water came down thick with mud and 15 feet deep how is a man going to see what the appearance is in the bottom of the river

Q You can tell after the river goes down probably? A If it did, as the river went down it would break back in new places and

Thinks each flood
Scours the Channell

the result is we would see the channel just as it was before the flood so that we did not notice any difference if it is a fact that it cuts out, my conclusion is that it does, but it is only a conclusion and if it is a fact that it takes it out, it leaves it just in the same condition that it was before the flood struck it

Q What is the basis of your conclusion that it cuts out?

A I conclude from my knowledge of the power of water

Q Does the water run there with very great velocity at Folsom during times of freshet?

A Above the bridge it does, above the bridge through the Cañon there it does.

Q Does it not run with considerable velocity opposite the town of Folsom when the river is high

Q How fast do you think? A Well below the bridge I never timed it.

Q You could make a pretty good estimate?

A No sir I never looked at it to make an estimate below the bridge

Q Well above the bridge?

A 25 miles an hour

Q 25 miles an hour?

A yes sir

Q As fast as a rail road train? A. As fast as three men could run a hand car. I timed it once with a floating log and there were four men on a hand car

8234 Q How high was the

water when you timed it? A It was in March in 1875

Q How high was the water then? A The water before it comes into the Canon was 26 feet deep.

Q How did it compare with the water in 1867 and 1868? A Oh it was 7 feet below

Q 7 feet below the water of 1867?

A yes sir

Q Do you know how much 7 feet more would have increased the velocity of that stream? A I have no idea, sir.

Q You could not make any calculation?

A No sir I might figure on it but it might be very wild

Q How did that water compare with the flood of 1872? A It was higher

Q Higher than the flood of 1872?

A Yes sir

Q How did it compare with the flood of 1878?

A It was higher

Q It was higher than the flood of 1878?

A It was the highest flood we have had since 1867

Q In 1875?

A yes sir, March 1875

Q You say it then ran at the rate of 25 miles an hour?

A I timed it. There was a large log in the river and four men took a hand car and they had to buckle to it to keep even with it. till it got to the bridge

Q Were they on the level or were they going down grade? A It was down grade; one place a little up hill but the balance down grade

Q How far down did they go? A They came down to as far as the railroad bridge

Q. That is how far above Folsom?

A They run against it from the quarry in about 7800 feet

Q That took them to the town of Folsom?

A They stopped when they went under the bridge, that ended the race.

Q The bridge is at Folsom? A The bridge is at Folsom

Q The log went on down the river? A Yes sir and they stopped or slowed up

Q I understood you to say that the several deposits that you speak of commenced appearing at the South fork about 1867?

A Yes sir

Q After the flood of 1867-8? A Yes sir

Q It was after the flood of 1867-8 was it?

A Yes sir

Q How do you know the grade of Alder Creek? A I know it only in a general way, in two ways; in the first place when the American river is ten or twelve feet too high and Alder Creek is down it does not back up, not over one third of a mile, and in the second place the Natoma Company have a ditch that starts out in a little over a mile and that ditch comes down with a grade of 7½ feet to the mile and when it gets down to the end the creek is about 20 feet below it. The ditch is a mile and a quarter long to the point where it leaves it. It starts in level and has a fall of from 7 to 9 feet per mile

Q You never took the measurements?

A No sir, but that in a general way is as accurate as a measurement.

Redirect Examination
of
H. T. Knight

Mr Catlin Q I wish you would state to what cause you assign this so called ebb and flow in the canal about half an inch a day

A It is more than that sometimes. It comes from the melting in the snow by the sun in the daytime and cooling off at night. As you go up the river it increases. I have known it far up in the mountains to amount to a foot and a half or two feet in the day

Q The water power dam, state whether that is completed or whether it is merely built up to low water level? A Built up to low water level, it does not obstruct the flow of the river, it is only a foundation

Q Is it in the course of being constructed and finished?

A Yes sir they are

8240 moving in the work now

preparing to finish the dam, when completed it will be 41 or 42 feet above the ordinary surface of the water in Summer

Q You say the floods sweep out every thing in that narrow Cañon? at low water you find nothing in there that is visible in the way of deposits? A No it is still water or nearly so at low water

Q I am speaking of the narrow Cañon?

A Oh there is nothing in there. That is the narrow space on the river That is the place where they put a plank across in the Summer.

Q At Folsom where the river spreads out to a width of about 1000 feet, about what is the grade of the river there? A It is very much less but I never made any estimates on it

Q Did those deposits in that broad stretch wash out during the Winter? A No I think they stay there

Q What reason was it you were about to assign that the increase in the fill of the river below Folsom was greater in the last 4 or 5 years in proportion than in former years?

A On account of increased mining operations in Maine Bar and opposite Folsom and Texas Hill from 1876 1877 - 1878 - 1879, there have been heavy operations there

Mr Hart Do you say that mining has increased

8242 at or near Folsom within

the last five years?

A Mining increased and then fell off

Q But nearly all the mining done there was done before 1862 was it not? A No, not one thousandth part of it. I have had the management of all of it and it has been done since I came there. The greater portion of it has been done since 1876 up to 1878 or 1879

Q And it then fell off? A It was mined out. A large number of claims were running in 1879 when I left there and I ran a heavy claim with 500 inches of water myself and when I came back I find they are all abandoned, there may be one company
8243 running but not more than that

Testimony
of
R. P. Johnson

Called for deft.   Sworn

Mr. Catlin: State whether you lived in Sacramento at any time between 1849 and 1857 or 1867? A. I lived in Sacramento most of the time from the fall of 1849 until the summer of 1857

Q. State whether you held any position in the City Government at any time during then, and if so, what it was and when it was? A. I was Elected one of the members of the Board of Trustees, or Aldermen, whatever they were termed, in the Spring of 1853, I was elected to the Council and held the position for one year

Q. Up to 1854?

A In the Spring of 1854 I was Elected Mayor of the City

8244

and held that position one year

2. I wish you would look at this map hanging on the wall, that map I understand is put in evidence by Mr. Cadwalader — there are certain soundings of the river there marked upon that map; that map is known as the Official Map of Sacramento, 1854, It was identified by some mark when Mr. Cadwalader offered it, I do not remember what that is, but it is a map of Sacramento City made in 1854. That would be a sufficient identification

Mr. Wilson It is the official map of the City of Sacramento California, compiled from actual surveys by W. S. Watson Civil Engineer, made under authority of the Common Council, 1854

Mr. Catlin I want to prove the soundings of the river, as marked on that map, and I
8245 have had a tracing made from

the map here showing somewhat plainer than there

Mr. Cadwalader The soundings go in as a part of the map

Mr. Catlin I want to have the soundings put in, and I will prove by the person who made this copy that they are correctly copied from that map

Mr. Cadwalader Well, I put the map in, and I suppose I put the soundings in

Mr. Catlin Well, if it is understood that the soundings as marked ~~are~~ are in Evidence

Mr. Cadwalader That is the way I understand it. The witness would know nothing about it because the map was made by Watson and he is dead, but that is the way I understand it, that the soundings are in with the map

Mr Wilson You have stopped at the question, you wanted to ask him about the fact that he certified it.

8246 Mr. Catlin I will ask you

whether that map was adopted by the City as its official map at that time?

A Yes sir, a Committee was appointed by myself as it appears here, of which William H. Watson was Chairman

Q. Was it adopted as the Official Map by the City?

A It was, this is my signature (referring)

Q. I will read, and ask the Reporter to take a description of the map "Official Map of the City of Sacramento, California compiled from actual surveys by W. S. Watson Civil Engineer, approved and declared to be the Official Map of the City by resolution passed December 4th by the Common Council, 1854, signed R. P. Johnson Mayor, W. H. Watson, Leonard Goss, Samuel S. Carlisle, J. R. Vineyard as Special Committee". Figures on diagonal lines in Sacramento and American Rivers are soundings and distances taken on 26th of September 1854 at

Extreme low water mark, high water being 17 feet 6 inches higher"

The Court. The tracing can be put in and can be compared afterwards. You can use it as a memorandum afterwards if it is the same, and if any one suggests that it is incorrect it can be compared

Mr. Catlin State where the old levee was in 1854 and 1855? What streets did it run on, on the south?

A You refer to what we called the R street levee? Q Yes sir what street was that levee on? A It was in R. St.

Q Where the railroad now is? A Yes sir the levee was built I think in 1853 while I was in the Council.

Q The levee was built in 1853? A Yes sir, I think so

Q. And the Sacramento Valley Rail road was built upon it afterwards? A Yes sir

Q. State whether you remember of the City pumping water out from the lower lots of the City over that levee prior to 1860?

A There was not water pumped, there were no pumps placed for that purpose until after 1857. I saw the pumps working there afterwards, I should think probably, I could not say positively but I think 1858

Q. What water was it they were pumping out?

A The water that had accumulated above the levee, the seepage from the City, the surface seepage from the City that had accumulated and that was obstructed by the R. Street levee

Q State whereabouts you resided at the time of your residence here, what point in the City? A From the fall of 1857 to 1856 I lived on the store ship called the "Joven Guipuzcoana" that was the store ship at the foot of J. Street upon which was a 2 story house

Q How long did you reside

8249

there? A. I resided there from 1851 to 1856

Q Can you state where the deep part of the river was during the time that you resided there and about the depth of water on the opposite side?

A The current of the river at the time of my residence there was near this bank, near the Sacramento shore. I can not tell how far from my store ship, probably 100 feet from the bow of my store ship was the deepest portion of the river between the Yolo and the Sacramento side of the river, and the current was deeper and stronger there than at the other points

Q. State what you observed in regard to the river upon the other shore, in regard to its depth? A. Directly opposite those who were here at that time will recollect that Mr. Storey had a ferry the landing of which was under the bow of my store ship, and running across to Yolo, and he would be doubtless be much better acquainted with the depth of the water and the character of it, but I know this that there was no filling on this side of the river; but in ~~clined~~ to wash, the shores inclined to wash inclined to xx wash on this side of the river notwithstanding the store ships that were moored all along the banks for 3 or 4 blocks, but on the opposite side of the river when the low water came after the high water you would always see that land had made on the Yolo side of the river

Q. Made how, just describe it

A By the deposit of sediment and sand

Q In the form of a bar in the river? A. No, it did not seem to be a bar in the river, but it was filling in from the westerly bank of the river.

Q Sloping? A Sloping to the center of the river, making the river narrower perhaps one year, than it was the year previous, a little, by filling in from the opposite side and not increasing upon this side

Q. You say you had a 2 story house upon this stone bluff? A Yes sir, my office and dwelling house of 8 or 9 rooms was built upon this bluff

Q Was that your daily residence? A Yes sir

Q. During how many years? A I lived there for over 4 years

Q You and your family lived there, you lived there constantly all the time? A Yes sir

Q State whether you ever forded the Sacramento River at any place and if so state when and where and the circumstances and how deep you found the water?

A When I came to California I came in by the short cut-off, through Oregon, called — I do not recollect the name but there is a County by the name now, and came down the Sacramento River and arrived at Sacramento on the 24th of September 1849, and before I reached here, I came down on the westerly side of the river and within perhaps six or eight miles I can not tell precisely where it was above Sacramento where I was directed that we crossed ford the river

Mr. Cadwalader That is the Russian crossing?

A I do not recollect what they called it, it was some ford and it had a name at the time and I was directed some miles above, perhaps 10 or 12 miles above where I crossed ford it and a gentleman and myself crossed on horseback, forded the river on horseback at that time on the 24th of September 1849

Q State how you forded it, whether you waded it, swam it or how? A We forded riding our animals and leading our pack mules, and I did not get wet nor the horses did not swim. I think the water was not more than 2 feet deep perhaps 3 1/2 feet deep at the deepest, the river was quite wide and pretty rapid and about the same depth for a long distance

Cross-Examination of R. P. Johnson

Mr. Cadwalader. That was the old Russian ford was it not, the place where you crossed the river, was the old Russian ford? A I am not certain I can not remember but if that was 6 or 8 miles above here I should think

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that was probably the place.

Q The Russians got their supplies of wheat didn't they from Capt. Sutter across that ford? A I think I have been told so

Q That is about 8 miles above here is it not?

A. It strikes me so from recollection

Q. You had to cross the American after crossing the Sacramento? A Yes sir

Q You were the agent of the Brayden and the Eurilda?

A Yes, and the Comanche and the Queen City

Q. Side wheel steamers?

A Yes sir

Q. What year did you leave here? A. I left here and went East in 1856 but I retained my residence here until some time in the latter part of 1857, when I went up into the mountains

Q You say the pumping commenced in 1858?

A. No, I do not say so, but I think it was after I left here, I should think it was probabably 1858

Q. There was no pumping done while you were there?

A. No sir, it was a subject that had been mooted and talked of, but never was consummated and never anything done in that line until after I left there

Q. The pumping done somewhere near the corner of Q. and Front, was it not?

A. Well, I should think it was in the neighborhood of Q. or P. Street

Q. Do you recollect an old Flour mill down there called the Bay State?

A. Yes. I recollect there was one this side of that

Q. That pump was never run was it?

A. The pump never run?

Q. Yes sir, dont you recollect that William S. Long took the contract and never was able to fulfil it?

A No, I was not here at the time. I think I recollect too that Mr Long had something to do with it, and Mr Watson was very much interested W H Watson, if I remember and he called my attention to it

Q. But whether there was any pumping there or not you do not know of your own knowledge? A. I saw the pump there and my impression is that I saw it in operation

Q But you say that you left your residence here in 1857?

A In 1857

Q. And the pumping was done in 1858? A. The pumping was done afterwards, I was through Sacramento a great many time. Every year afterwards

Q. You have not lived here since 1857 have you?

A. I have not held my residence here since 1857.

Q. You have not lived there at all? A. I have not. It has not been my residence

Q. You were speaking of the ferry, that was pretty near the foot of I street was it not

A. No sir, it was exactly at the foot of I. street

Q. At the foot of I. street

A. Yes sir

Q. Well, do you recollect the approaches to that ferry?

A. I recollect.

Q. How did teams get to the ferry? A. They went down an incline from the top of the levee, a long incline from the top of the levee and a similar one on the other side of the river

Q. Do you think there was any land made on the other side as early as 1856?

A. Yes sir, I think there was

Q. You describe it as an accretion to the bank?

A. How?

Q You described it as an accretion to the bank, more than a bar in the river?

A Yes sir, as if it had filled in from the shore, not a bar across the river, it did not reach across the river but it seemed to be deposit there, I should judge from the character of the stream, the water came down, and as it came down the bend above, the tendency was to cut into the bank on this side and make slack water on the opposite side and the deposits were from that slack water

Q. Was that accretion more than 5 or 6 feet?

A Oh, I should think in the course of my residence there it probably extended down 50 feet

Q. From top to bottom?

A Yes sir, measuring for instance the original old shore down

Q. How far up and down

the river did it extend?

A. Well, my recollection is, that not a great ways below where the current of the river was turned to the right again, that it cut it off, and if there was any addition —

Q. That is not what I asked you. I asked you how far this accretion extended up and down the river above and below the ferry landing?

A Well, I do not think it extended above the ferry landing on the opposite side and perhaps a couple of hundred feet or such a matter, 200 or 300 feet from the ferry landing, just about commencing at the ferry landing

Q Do you recollect an oak tree that was growing there on the bank?

A On the opposite side of the river?

Q Yes sir

A I have no special recollection of any particular true

Q. Immediately above the ferry? A I have no distinct recollection of it

Q Well, you say there was no accretion on the bank when you got below 200 feet?

A Well, I should say 200 or 300 feet perhaps of this longitudinal bar if you please to call it so, was or the accretions on the shore extended 200 or 300 feet below

Q. And there was none above?

A. I do not think any above, I do not recollect any above the ferry

Q. The current of the river was then on this shore?

A Yes sir, it tended to this shore, it scoured the bottom toward this shore. The bottom of the river on this side at that time was very hard, a firm bottom

—— " ——

Testimony
of
Thomas McConnell

Called for deft sworn

Mr. Catlin Where do you reside?

A In Sacramento County on the Cosumnes River

Q How far from the City?

A About 18 or 19 miles

Q. How long have you resided there and state whether you own land on the Cosumnes River? A Yes sir, I have owned land there, I have resided there since 1856, 25 years.

Q State whether you have owned land affected by the sediments and debris in the Cosumnes River?

A Yes sir

Q. To what extent?

A I have, I suppose from 500 to 600 acres affected and a good deal of sediment deposited in it in the last 25 years,

Q. To what depth?

A Well, I suppose from 2 inches up to 6 feet, over several hundred acres.

Q State what effect that has had upon your land, so covered? A. Well sir, some portions of it have been very much improved and some of it has been injured. In 1869 or 1870 I think it was

Q. Did these deposits all come at one time or have they gradually come? A. No, they come gradually but more came in 1861/2, I think the great flood, and perhaps in 1867 than in any other time's — 1867-8

Q. Most in 1862 and in 1867-8? A. Well I noticed more in 1861 1862 at the time of high water

Q State how much of that land has been improved by this deposit?

A. It is about 200 acres that I have cleared off in 1869 that I have been working for the last 10 years, 10 or 12 years.

Mr Cadwalader How many acres?

A about 200 acres.

Mr. Catlin To what uses could you put that land prior to that time?

A. I say, I could not put it to any hardly; it was growing up with tule and willows, it was a swamp

Q. What uses have you put it to since? A. I am raising corn, alfalfa, potatoes and other crops there.

Q. You say some portions have been injured. State in what manner? A. It formerly produced a fine grass, clover hay. But this has deposit upon it and willows are growing upon it and it is not productive now as it was before.

Q. That is the portion that you say you considered injured? A. Yes.

Q. It formerly produced what? A. Clover hay.

Q. Natural~~ly~~? A. Natural grass.

Q. Had you ever cultivated it before the debris came on it? Had you ever ploughed it?

A. Not the small portions of it. I have some portions of it, but not to any great extent, perhaps 20 or 30 acres of it.

8265 Q. It raised a natural grass

then?

A. Yes. It was a natural bottom and produced very generously — hay.

Q. To what extent or depth is that part covered?

A. Different depths. From one foot to two feet in places or some places perhaps not more than six inches.

Q. State why that portion of it has not been improved by the deposit, the same as the 200 acres?

A. It has not been leveed and worked.

Q. What? A. It has not been leveed and put in condition so I could work it.

Q. You have not utilized it?

A. No.

Q. Suppose you had treated that land the same as you did the other by leveeing it and cultivating it, would it have been capable of producing alfalfa, corn and potatoes?

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Obj. **Mr. Cadwalader.** We object to

that as calling for supposition.

Mr. Catlin. State whether there is any difference in the character of the deposit upon the two portions?

A. No. I can not discover any particular difference. The deposit near the running stream is not as good as it is away from it. It leaves a sand. I have brought in specimens of some of the dirt. There is some; that sand come from the center or near the stream <showing.> That I considered as the part worthless or not as good, where it is held in suspension by the running action of the water. That comes right near the center of the running stream and its course. Here is some of which I have 200 acres, which is very productive and produces everything <showing.>

The speciment first mentioned by the witness was marked "Cosumnes, No. 2", and the one

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last mentioned was marked "Cosumnes No. 1."

The Witness. That which comes from the center, of the stream is sand. The other is different, is what I call sediment. The sediment is very productive, is very find land for working. That is taken from three or four different places over the extent where I have cultivated for the last ten years.

Q. Is that material damp, or dry in the bottom?

A. It is damp. It was taken up yesterday from the top of the ground and it is damp. That is near the running stream itself, and that deposit of sand is not good.

Q. How far is your land from the mines at Michigan Bar?

A. About 17 or 18 miles. A winnowing process goes on by the action of the water and leaves the coarse, sandy deposit, and as it gets down lower in the stream it gets better. The deposit of sediment, when it gets down as far as where I am located, is generally productive in good land.

Cross Examination

Mr. Cadwalader. Q. You live at the Railroad Crossing of the Cosumnes?

A. Yes.

Q. You are on the old Smith place? A. Yes. Smith formerly owned it and I bought it.

Q. And this 200 acres, you say has been improved, was formerly tule?

A. Yes:—Tule on the north side of the bottom.

Q. Called the "tule swamp", was it not?

A. It was tule; it was swampy so you could hardly ride a horse through it.

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Q. It was really the high water bed, was it not? It was where the Cosumnes river commenced spreading out like a fan?

A. The river spread all around it and over it in high water.

Q. But I mean commencing there at your place?

A. No it commences above. The spreading process commences on the place above mine.

Q. Your house is on a hill, is it not?

A. It is on a bluff of the bank.

Q. And you looked right down on this high water bed of the Cosumnes river?

A. Yes:- You can look right off down it.

Q. And there the water in winter spreads and keeps spreading as you go towards Mokelumne?

A. It spreads a mile wide in high water. The stream itself, the running stream must be a mile in width, running the whole, entire length of me.

Mr. Catlin. That is in high water?

A. In high water.

Mr. Cadwalader. The Cosumnes river is more than two thirds filled, is it not?

A. Almost entirely. The old stream is almost entirely obliterated; the old bed of the river is completely filled. As a water drain it is of no value whatever. It has a new channel forming.

Q. I will ask you if the land is not nearly flat from your place up to the McCracken bridge?

A. It is quite a fall to the river.

Q. I mean the river runs through the plain?

A. I would not call it a plain. It is a level bottom; but there is a fall of at least five feet to the mile or more.

Mr. Catlin. What is the last answer?

A. I say there is a fall of in the river of over, or at least, five feet to the mile. I have leveled it off.

Mr. Cadwalader. All the stuff in that river has come from the Michigan Bar mine, has it not?

A. It has come from above.

Q. But that is the way you understand it: that it has come from the Michigan Bar mine?

A. Yes; it has come from above.

Q. There is only one hydraulic mine on that river?

A. Yes.

Q. That is the way you understand it?

A. I understand it comes from above. That is the only hydraulic mine I know of, the one at Michigan Bar.

Q. That mine does not discharge directly into the river, does it?

A. No, it does not.

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Q. It is a mile about one and a half miles from the river, is it not?

A. Yes, I should judge just about that.

Q. Only the finer material from this mine goes into the Cosumnes river?

A. Yes. Of course the courser part would be left and the finer material would come down.

Q. That mine is called the Hill Tops, is it not?

A. Yes.

Q. And that has filled up the bed of the river full clear down to your place?

A. I would not say in all places. But it certainly has opposite us. The original bed of the river was crooked and it has filled the original bed of the river completely up, so that in many places it is of no value as a drain at all.

Q. And all done by one hydraulic mine?

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A. I would not say by me. I think it was done by others. I think they have all assisted. I think everybody has helped to do it.

Q. Do you know of any other hydraulic mine on that river?

A. I do not. That is the only one that I know.

Q. And nobody else knows of any other there?

A. Well, I do not know. I do not know of any. But there has been a vast amount of mining there.

Q. You have been up and down the river frequently every year for 20 years, have you not?

A. I think I have — probably 15 or 20 or 25 miles.

Q. You have been clear up?

A. Yes. Opposite to Placerville.

Q Now you say that in 1861 and '62 this tules swamp of yours — lying south of the house does it not?

A No; more west.

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Q. South and west?

A. Yes.

Q. You say that in '61 and '62 that was covered with slickens?

A. I didn't say slickens. I called it sediment.

Q. How much did it fill your swamp up?

A. I can not tell any one year how much it filled. But it has been filled, we will say, from one foot to six or eight feet deep.

Q. And from 1861 to 1862?

A. I could not tell the exact amount in any one year. But a vast amount of it came down in that year.

Q. How much did it fill on this 200 acres?

A. I could not say how much; but I should say that it filled in there several feet, two or three feet deep in one season.

Q. You have been doing a good deal of leveeing down there, have you not?

A. Yes.

Q. To keep any more from coming in?

A. Yes; I have leveed off this piece of land.

Q. And a man looking at your levees down there would not think you wanted any more of that stuff out of the Cosumnes?

A. Well, if it comes on continually, each year, you can not raise a crop on it; if it keeps coming on and depositing every year. But there is no doubt about it being productive land.

Q. You do not want any of the stuff that you find in the bed of the stream or near its margin, do you?

A. No. That which is held in suspension by the running stream is sand and of a course nature and is not productive. That comes from the center <pointing.>

Q. You want the stuff that is deposited by the stiff water?

A. Yes, that is it exactly. That is held in suspension and deposited by still water; it makes very fine soil.

Q. What is the color of your slickens?

A. It is a yellowish color. It is not black or dark, but it turns so more or less. It decomposes and disintegrates by exposure to the atmosphere and by working it.

Q. Does it crack a good deal?

A. When it is first deposited on the land it cracks.

Q. I mean after it gets dry?

A. After it is worked? No, that land never cracks.

Q. Before it is worked and after it gets dry?

A. Yes, it does.

Q. Cracks clear down to the natural soil?

A. It does crack - yes.

Q. What is it composed of

A. It is composed of the dirt that comes from the washing of the land.

Q. And what mineral?

A. Its constituent parts I can not tell.

Q. It is made out of mineral, is it not?

A. I could not say; I think it is dirt.

Q. There is nothing in it except clay and sand, is there?

A. Yes, I think there are other things.

Q. You have been in the Hill Top mine and know what kind of soil comes from there.

A. Yes. That which comes from 30 or 40 feet deep is not valuable and good like that which comes from the surface of course.

Q. You could not raise anything on the gravel that is worked out of that mine, could you? A. No. I do not think it could be good. I have never had any experience with it, but do not think it would have any value.

Q. Has your slickens got

any vegetable mould in it?

A. It has a good deal of this micre in it. I could see micre in it that comes down.

Q. You do not call that vegetable mould do you?

A. No, I do not.

Q. It must get this vegetable mould in travelling through the valley, does it not?

A. Yes and above. I think a great deal of it comes from 20 and 30 miles above, naturally and by other washings.

Q. That is the vegetable mould?

A. Yes.

Q. No person would think, of wanting to farm on anything that comes down the channel of that river? That would be totally worthless, would it not?

A. The sand is certainly worthless.

Q. The channel of the river is filled with sand, is it not?

A. A great deal of it.

Q. There is nothing in the channel but sand?

A, The sediment and that lighter material, that is valuable, is held in suspension and deposits when the water is still, while the sand is left on the bank near-by.

Q, Does the sand ever leave the channel?

A, Yes.

Q, How far does it go?

A, It is forming a channel of itself, and depositing on each side. It is building up a bank now.

Q, Does it go 40 or 50 feet away?

A, Yes, I think more than that, from the course left. As it gets out of the course of the water the more it deposits. And as you go away from it, it gets better. That which is along near the current is not good.

Q, Your place is now the new channel of the Cosumnes is it not?

A, Yes; all the water runs in it now.

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Q. The old channel over by Hicks' is all closed up?

A. There is no channel there now that amounts to anything. It is filled up.

Q. That was once quite a channel, was it not?

A. That is the old river bed, the old river itself.

Q. When did the river change its bed and come over ~~to~~ and run over your 500 or 600 acres of land?

A. Every year, when we have high water, it runs over the whole of it.

Q. That is not what I ask you. What I ask you is this: When did the Cosumnes river commence running through that new channel and over your land?

A. It has been a gradual process. There was no one year in which it took place, but it has gradually closed up the old channel.

Q. I want to know when it

commenced?

A, I should say it commenced in 1861-2 and perhaps before. But I noticed it more then, because it was a larger flood. It continued a long time and there was a great amount of the deposit came down.

Q, How long has that been the channel of the Cosumnes river?

A, Only for a few years I believe. There has been no particular time that it has been the channel. But it has been now the channel for several years.

Q, For several years?

A, Yes. I should think it was at least eight or ten years.

Q, For the last eight or ten years the water has been running over your land instead of running half a mile abutting Hicks?

A, The old channel of the river has been filled up and the new channel made.

Q. Now for the last five or six years the only channel of the river has been over your land?

A. Yes, that is true.

Q. And it was unexpected to you, because your levees were on the old river-side?

A. No. There was a bend I cut off. The main part of my lands I have not leveed at all. ~~The~~ I only cut-off on the north side, still north of the river channel. I leveed, out a piece on the new river channel.

Q. Where did you commence your levees?

A. Just below my house, about 20 rods; I built right down on the north side of the place and took of about 200 acres.

Q. Out of your 600 acres you say you have 400 that are totally worthless?

A. No. I do not say they are totally worthless. But I say they have been injured a good deal, injured in this way: that they have not been productive. But I do not think the land is permanently injured.

Q. You can not work it at all, can you?

A. No, I can not farm it.

Q. You can not do anything at all with it?

A. Until leveed.

Q. Until you either get that channel cleaned out or new levees built?

A. It is impossible to clean out the channel. The old channel never will be cleaned in the world. It will have to be taken out with a wheel-barrow.

Q. Is not that full of very light sand?

A. No. It is filled up and willows are growing right in the channel itself.

Q. That is not what I ask. Is it not full of very light sand?

A. Not very light.

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Q. Is it not very light sand?

A. No. It is heavy.

Q. Can you plough slickens? Can you plough the land the year that slickens comes on it?

A. The first year it would be difficult. But after it has been worked, it is splendid land to work.

Q. Will not stocks stick in it?

A. I have had stocks stick in it.

Q. And be unable to extricate itself? A. Yes I have stock get stuck and lost stock.

Q. You can not imagine a farm getting in a worse condition than having four feet of slickens on it, can you?

A. It depends on circumstances.

Q. There can not be any locomotion at over the surface can there?

A. It would be bad — might be bad.

Q. How many times does slickens have to be ploughed in the old soil before it becomes reasonably productive?

A. That depends on how far from the mine the slickens have come from, it is and the character of them. I should think in two or three years. It has been my experience, ~~wh~~ with what I have had to deal with it, it has proved to be good land.

Q. After two or three years cultivation you think it will make good land?

A. Yes.

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Testimony
-of-
Samuel B. Harriman.

Called for defendant sworn.

By Mr. Byrne.

Q. What is your occupation?

A. Mining.

Q. Where do you reside?

A. Dutch Flat.

Q. How long have you lived in that neighborhood and been engaged in that occupation?

A. Since July 1853.

Q. Do you know the Gold Run Mining District?

A. Yes.

Q. Since what time have you been acquainted with that locality?

A. I have known something about it since 1854, and from 1865 to 1875 I worked there continuously.

Q. How intimate has your knowledge been of it and what have been your opportunities of observation in regard to the character of the material and the manner of working it during those years?

A. During those ten years that I worked there we were running off what we call the surface gravel which was a good deal lighter material, finer material than the bottom strata.

Mr. Cadwalader. You say the surface gravel was worked off during the ten years you were there? A. Yes.

Mr. Byrne. Between what years ~~wh~~ was that?

A. That was between 1865 and 1875.

Q. You say you first saw it in 1854? A. Yes.

Q. To what extent had it then been worked?

A. They were mining there on rather a small scale until 1865. There was not a good supply of water, not enough for all to work with.

Q. What caused the increased work-

-ing after that time?

A. Other ditches being brought in.

Q. How many ditches were brought in and what supply of water did they afford?

A. The South Yuba ditch I think was completed in 1864. That carried about 3000 inches. What was called the Bradley and Gardner ditch was ~~completed~~ first brought in there in 1856, but it was a small ditch and only carried a small amount of water. It was continually increased from year to year.

Q. Describe to the Court the character of mining operations that were carried on in that district between the years 1865 and 1875?

A. The ground was then owned by small companies principally and it was all worked and run off by what is called the hydraulic process, by washing the dirt with water under pressure and discharging it in the cañons and

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ravines most convenient to the mines.

Q. Was that the universal practice in that district?

A. It was.

Q. How many companies were conducting mining at that time and in that place in that manner?

A. I should judge there were from 25 to 30 different companies.

Q. And what was the average head of water used there at that time for the company?

A. From 200 to 400 inches.

Q. You say you were engaged in mining there at that time?

A. I was.

Q. Upon what claims?

A. I owned in what were called the Church and Golden Gate, and Conner and Karner claims.

Q. To what corporation or company does the Church and Golden Gate claim now belong?

Mr. Cadwalader. We object.

Mr. Byrne. It is a matter

which has already been proven by our patents, which are not here.

Mr. Cadwalader. If it has been proved by the patents, there is no need to prove it again. You can show a change of possession up to 1860 but after 1860 you could not convey a mining claim except by an instrument in writing.

Mr. Byrne. The particular purpose for which I ask the question and offer the testimony is, to show that prior to the time when the present defendant became the owner of this particular piece of land — which is also true of the Indiana Hill, which we have proven — the surface or top stratum was washed away. The witness was one of the owners then.

The Court. I suppose it is a matter of identification only.

Mr. Byrne. Partly that and partly to show —

Mr. Cadwalader. (Intg.) They

want to prove title by it.

Mr. Byrne. No. I do not ask this question for the purpose of proving title at all. We say our title has been proven by our documentary evidence.

Mr. Cadwalader. All right then. Proceed.

Mr. Byrne. These four claims I observe right together (pointing on the map) Were they afterwards consolidated or were any of them consolidated in one claim?

A. The Church and Golden Gate were consolidated into one claim.

Q. To what ~~claim~~ company did you say these claims now belong?

A. What is known as the Gold Run Ditch and Mining Company.

Q. The defendant in this suit?

A. Yes.

Q. To what extent had the surface or upper stratum of those claims been washed away prior to the time when the present defendant became the owner of ~~your~~ that or acquired the ownership?

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A. We had washed off all the top surface that we could at that time with the fall we had.

Q. Into what outlet or place of discharge did you send your water or tailings in working those claims?

A. Into Cañon Creek.

Q. By what means? I mean was it through a tunnel or an open cut or how?

A. The three last seasons that I ran them we worked through a tunnel. Previous to that we worked through an open cut.

Q. Describe the tunnel to the Court. That is to say, was it a deep tunnel or comparatively shallow?

A. We had run out of grade in working off the surface and we went back to the brow of Cañon Creek and ran a tunnel in 600 feet. By that means we succeeded in getting in the second stope of about 70 feet of ground.

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Q. Do you know the tunnel that is called the tunnel of the Gold Run Ditch and Mining Co. which starts from Cañon Creek and runs from what is called the Indiana Hill claim?

A. I do.

Q. Have you been in it?

A. I have.

Q. And through it?

A. I never was clear through.

Q. You know the tunnel I mean? A. Yes. I have been up 600 or 800 feet in it.

Q. How does that tunnel compare in depth with the tunnel you speak of as having been used by your company in working the Church and Golden Gate or working the top stratum of it?

A. I think that tunnel will work the channel probably 120 feet lower than we worked it.

Q. How near to the bedrock or bottom of the channel could you work the Church and Golden

Gate claim through the tunnel of which you have first spoken.

A, What?

Q, How near to the bottom, of the bed-rock of the channel could you wash with the tunnel which you first spoke of? We will call it the Church and Golden Gate Channel.

A, I do not know. But probably 125 or 130 feet from the bed-rock.

Q You could not work within 125 or 130 feet of the bed-rock, I understand you? A, No.

Q, We ask you if there is not a deep tunnel or any other means of working the bottom of that channel except the tunnel known as the tunnel of the Gold Run Ditch and Mining Company in that district?

A, I do not know of any other one of working.

Q, If there were any other deep tunnels there would you know it? A Yes.

Q You are familiar with that

8295

district are you not?

A, I am.

Q, I will ask you to describe to the Court the difference in quantity, that could be washed away in your early mining operations there with the same force of water and taking into consideration the difference in material, and that which can be worked now through the deep tunnel?

A, Well, I should judge that we could run off three or four times the quantity of the surface material that we could on the present grade in the lower bench or bottom of the channel.

Q After the year 1875 or 1876, say, how many claims were in operation or have been in operation in that district, excepting the claims worked by the Gold Run Ditch and Mining Company, through this deep channel?

A, I could not state exactly.

I think the last season there were but three.

Q. Do you know how much water in comparison is now used in that district or will in the future be used in that district relatively considered as to the years 1865 to 1875.

Mr. Cadwalader. That calls for a conjecture and an irrelevant one at that.

Mr. Byrne. That is quite relevant: — Do you know how much water is being used in the Gold Run Mining District now and how much will be used in the future if mining operations continue there?

Mr. Cadwalader. We object as calling for a conjecture on the part of the witness. It might be controlled by a ~~few~~ thousand things.

The Court. You can ask whether he knows or not.

Mr. Byrne. Do you know or not?

A. I do not know how much can be used.

Q. Do you know about how much?

Mr. Cadwalader. We object to that.

The Court. The counsel ask's him if he knows.

Mr. Byrne. I do not suppose the witness does know absolutely to the inch but I suppose he has a general knowledge on the subject.

The Court. Well, about how much.

Mr Byrne. That is the question I asked; about how many inches?

The Court. Do you know?

Mr. Byrne. If you know:

A. I should think 2000 inches would be all that would be used.

Q. In what claim have you been engaged for the past four or five years and in what capacity?

A. I have been foreman of the Hayward Mines at Dutch Flat, the Polar Star and Southern Cross.

Q. What do you say as to the claims at Dutch Flat, of which the Polar Star and Southern Cross are two, being upon the same general system or channel as the claim of the defendant at

Gold Run?

Mr. Cadwalader. I do not see that that is material. It calls for a geological opinion.

Mr. Byrne. It leads up to another question, which you will see is material.

The Court. Well, go on.

The Witness. I do not think that the Dutch Flat and Southern Cross are on the same channel but a tributary of it.

Mr Byrne. A tributary of the same channel?

A. Yes.

Q. Which do you think is the tributary? Do you mean the Gold Run Channel is a tributary of the other? A. No.

Q. That the Dutch Flat Channel is tributary to the other?

A. Yes; farther north.

Q. To what extent does the material in the Polar Star and Southern Cross mines resemble that in the deep workings of the Indiana Hill claim at Gold Run?

A. It resembles it very much

8299

the same, except the Dutch Flat, Southern Cross and Polar Star is much coarser gravel.

Q. In what respect coarser? Do you mean more solid rocks or larger rocks?

A. More, large bowlders.

Q. Comparatively, what is the proportion of solid rock in each claim? Take the Indiana Hill claim and the Polar Star, how do they compare as to the quantity or percentage, if you please, of solid rock which is contained in the bottom of the respectful formations?

A. I do not think there would be much difference.

Mr. Cadwalader. Except in the coarser bowlders.

A. Larger bowlders.

Mr Byrne. Speaking of large bowlders, have you ever seen any large bowlders in the Indiana Hill claim?

A. I have.

Q. How much?

8500 A. I have seen them 8 and 9 feet

in diameter.

Q What kind of rock?

A I could not tell. They were large blue bowlders.

Q I do not ask you to classify them geologically. Was it hard or soft rock?

A. Hard bowlders.

Q Very hard?

A. It looked to me like it: I never broke any of them.

Q. When did you see a bowlder of that size in that mine?

A. A few days ago.

Q. Within a week? A Yes.

Q. It is there yet, is it not?

A Yes.

Q. Do you know what the effect of discharging the bowlders and hard material from the Polar Star Mine in the Bear river has been so far as to create an obstruction when the tailings come down the river from above? If so describe that to the Court.

Mr. Cadwalader We object to that as irrelevant. Bear River is a stream by itself.

Mr. Byrne. That is very true. Bear River is a stream by itself and we now propose to show that at the discharge from Polar Star mine, a dump has formed there which has been immovable and unmoved for years.

The Court: Go on. We have heard a good deal of it already and will hear a little more.

A. At the dump of the Polar Star Mine there is formed a dam along Bear River. The tailings, rocks and bowlders, are piled up there almost up to the sluices where it dumps into the river — off rapidly into the river.

Q. Proceed and describe that farther if there is anything more to be said about it?

A. It backs the water up very near three quarters of a mile. The water was backed up when we quit washing last summer, in the river. It forms a dam and backs the water up three quarters of a mile.

Q How long has that been there? A. For the last four years there has been a dam there which has kept the water back.

Q Has any flood washed it away? A. Not wholly. It is cut a little out on the opposite side of the river, so as to drain the dam or pond and let off the water which was backed up, in the heavy storm. During a heavy flood it was cut down enough so that the water would drain out of the dam, which was made above, drain out the pond.

Q From your knowledge and experience as a miner and particularly your experience there at the Polar Star, what is your opinion as to the distance that the bottom material from the Indiana Hill mine can be carried down the river by the water?

Mr. Cadwalader. We object.

Mr. Byrne. I think the witness has shown he is qualified to express an opinion.

Mr. Belcher. The objection does not state any ground.

The Court. Is the objection that he is not an expert?

Mr. Cadwalader. Yes sir.

The Court. I think he is hardly qualified to express an opinion.

Mr. Byrne. Do you know the North Fork of the American river and if so at what points and places?

A. I know very little about it except at the Ford's Bar Crossing.

Q. How long have you known it there and to what extent are you familiar with it? How often have you crossed, how long have you been in the habit of crossing and what has been your observation as to the condition of the river at Ford's Bar?

A. I used to cross there

very frequently up to 1860. Since that time I do not recollect of crossing that river.

Q. Have you been there recently?

A. Oh yes! in October. I was there in October, the last of October.

Q. Describe to the Court the difference in the condition of the river now, or in October we will say, and as it appeared to you in 1860? To what extent has it filled up if at all?

A. I I found it very badly filled up with tailings at Fords' Bar and all the way down from there to what is called Rice's Bridge.

Q. Did you go from Fords' Bar to Rice's Bridge?

A. I did.

Q. In October? A. Yes.

Q. Describe the condition of the river to the Court?

A. I should think to the best of my judgment it was filled up and the tailings were 60 feet deep at Fords' Bar.

Q. Now you observed the depth of the tailings at other points? If so, where?

A. Yes. The river was filled up about 150 feet wide from there down as far as Rices' Bridge. It was gradually tapering out; there were not many tailings in the river there at the bridge.

Mr Cadwalader. What? Tapering out? A. Getting less as you went down stream.

Q. From Fords' Bar to Rices' Bridge? A. Yes sir.

Mr Byrne. You know what pipe clay is do you not?

A. Yes.

Q. Did you ever see any pipe clay in the bottom stratum of the Indiana Hill mine?

A. I saw some pipe clay there.

Q. Where did it come from?

A. It was, I should judge, about 100 feet from the bottom of the cliff. No regular strata, on the east side, of pipe clay, but some bunches there. On the west side I saw pipe clay.

Q. This that you speak of, was it a part of the original formation or was it something that had fallen in there?

A. It was a part of the original formation.

Q. How far from the bed-rock did you see this?

A. 100 feet from the bed-rock.

Cross Examination

Mr. Cadwalader.

Q. You say that mining was conducted on a small scale at Gold Run before 1865?

A. yes.

Q. And was so conducted because there was no water there, no water of any consequence brought in there, until after 1865?

A. It was carried on a small scale compared with 1865 to 1875.

Q. Since 1865 a great deal of that top has been washed of has it not?

8309

A. All of it.

Q. All of the top has been?

A. During those years.

Q. Let me see whether I understand you. You say that all the top washings occurred there since 1865?

A. Not all of it. There was some done previous.

Q. But the greater part of it?

A. Yes.

Q. Have you called the surface gravel — what is the color of it?

A. Yellowish gravel.

Q. And that continues down to what depth? Until you get to blue cement?

A. Until you get to the blue cement.

Q. Until you get to the blue cement?

A. No.

Q. What do you call the blue gravel?

A. Pretty near the whole surface of the country that has been washed off there is down to the blue gravel.

Q. Do you call that blue gravel <showing.>

A. No. That is cement.

Q. Do you call that blue gravel. <showing.> A. It is not the color of the gravel when it is first uncovered.

Q. Do you call this blue gravel <Boxes 2 & 3.>

A. That is not the color of it when it is first exposed there.

Q. Is that the blue gravel from the top, from the surface down until you get to what you call the blue cement?

A. I could not tell.

Q. Does it look like it?

A. It does not look like it when it is first uncovered.

Q. You find under the roots of the trees stuff like that, do you? A. I could not say.

Q. You worked there several years, did you not?

A. Yes.

Q. Do you not find stuff like that until you get down to the blue cement?

A. That looks like the top stuff, the top gravel <showing.>

Q. Is not that the stuff you find until you get down to the blue cement?

A. Oh, no! Blue gravel is the color of that only is not cemented.

Q. Where is something which looks like that, which has the immediate material between the stuff in these two boxes and the blue cement or blue conglomerate?

A. That is the color of what we call the blue gravel - that cement.

Q. Do you call the cement the same as the gravel, or do you make any difference between them?

A. That is cemented together and all the blue gravel is not cemented.

Q. Do you know how deep the blue cemented gravel is in the Gold Run pit?

A. No, I do not.

Q. You never examined to see?

A. No, I never examined to see how deep the cement was.

Q. That cement there yields very readily to powder, does it not? Powder blows that all to pieces? A. Not very readily. I should think it would leave it in big chunks, large pieces.

Q. Using powder and water would distintegrate it, would it not? A. It would; But that kind of material it would leave in large chunks and it would have to be broke up afterwards.

Q. Suppose you ~~ran~~ run it into a cut and put it to a drop of 70 feet and then ran it through a tunnel 2000 feet long and then through a cañon ~~in~~ with several ~~fields~~ falls in it ~~not~~ and having a grade of over 100 feet to the mile would ~~it~~ not that break it all up? A. I hardly think it would, that material. I think some of it would go through in big pieces.

Q. If it did not you would find some in the river, would you not? A. Yes, you would be pretty likely to find some of it in the river.

Q And if you did not find any of it in the river, you would be pretty sure it had been broken up before it got to the river, would you not?

A. I would think so.

Q. You wd have no doubt about that in your mind as a business proposition, would you?

A. I should think it had gone somewhere if you could not find any of it in the river; gone down or ~~been~~ been broken up.

Q. You would think it had become disintegrated? It would not be covered up because it would be lighter than cobbles and would appear on the surface, would it not?

A Yes.

Q. And if you found none of that ~~kind~~ from the mouth of Cañon Creek, or found none of it between Fords' Bar and Rices' Bridge you would come to the conclusion that the conglomerate no longer existed; that it had been disintegrated?

A. It is a long distance from Fords' Bar to Rices' Bridge.

Q. You say if you found none of that blue conglomerate between the mouth of Cañon Creek and Rices' Bridge you would come to the conclusion that it had been disintegrated before it got in the American river? A. Yes

Q. Do you know the extent of the mining operations of the Gold Run Ditch Company between 1870 and 1875 — what kind of work that company was doing then?

A. They were running a tunnel as one branch of their business, the ditch tunnel.

Q. Were they doing anything else or do you know?

A. Yes. They were mining.

Q. Where? There at Indiana Hill? Were they mining any at Cañon Creek?

A. Yes. I was working the claim for the company.

Q. They had their full water supply, did they not?

A. From 1870 to 1875?

Q. Yes? A. Yes.

Q. Their mine was then an equipped one, was it not? That is, they were in actual operation? A. Yes.

Q. How much material were they moving between 1870 and 1875, a miner's inch?

A. They were selling some of their water. I do not know and could not tell exactly how much they were using during that time.

Q. Supposing they were at work during those years, on this material in boxes 1. and 2, how much of that were they moving, a miner's inch?

Mr Byrne: Did you say that the Gold Run Ditch and Mining Company were mining on the Indiana Hill claim between

1870 and 1875?

A. I said they were running a tunnel during that time and selling water.

Mr. Cadwalader. You said that they were mining besides?

A. Yes. They were mining in a claim called the Gem Claim. I was working it for them.

Q. Where is that?

A. Gold Run. It was not the Gem but the Bay State Number Two.

Q. They were tailing in-to, Cañon Creek, were they?

A. Yes.

Q. Now, answer my question. How much of that material in ~~th~~ boxes One and Two would a miner's inch of water move?

A. I could not tell you.

Q. Give us some idea?

A. I never have had any experiment to know what a miner's inch of water would run in 24 hours and I could not answer it.

Q. You did not say to Mr. Byrne that a miners' inch would move any particular quantity, did you?

A. No.

——— " ———

The Court here took a recess until Wednesday, January 4th. 1882, at 9.30 o'clock A.M.

——— " ———

In the Superior Court of the State of California in and for the County of Sacramento

The People of the State of California
vs.
The Gold Run Ditch and Mining Company

Morning Session
Wednesday
Jany 4th/82

Transcript of Testimony
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Winfield J. Davis
Official Reporter

In the Superior Court
of the State of California
in and for the County of
Sacramento

The People of the State of California vs. The Gold Run Ditch and Mining Company } Morning Session Wednesday Jany 4th/82

Cross-Examination
of
Samuel B. Harriman
resumed

Mr Cadwalader Will the Reporter read the last question asked the witness before adjournment yesterday and his answer

Reporter read as follows.

"Q. You did not say to Mr Byrne that a miners inch would move any particular quantity did you
A. No"

Mr. Cadwalader You did not testify on that subject, no

83,7

questions were asked you on that subject? A. No.

Q. Have you examined the banks in the Gold Run Mine? A Yes.

Q. When? A. One day last week

Q Just look at that material in boxes Nos. 1 and 2. You can get a better light on it now? A. Well, I should not call that the 'blue gravel

Q Well no; because it is not blue. That you call the blue cement (pointing)? A. Yes.

Q. How deep is that above the bedrock? A Well, I could not state the exact depth of it.

Q About thirty feet? A. I did not measure it

Q You saw it did you? A I saw the cement on the bedrock in the bottom, in the pit

8318 Q. The blue cement? A Yes

Q. You do not think it is more than thirty feet deep, do you?

A. Well, I cannot say in regard to that only from hearsay. I did not measure it.

Q. You did not? A. No.

Q. Do you know how much a miners inch would wash of that stuff there in Box 1 and also Box 2?

A. I never made any Estimate.

Q. Never did?

A. Never did in all my mining, I know what a miners inch of water would run in 24 hours.

Q. You describe the material at the bottom of the Polar Star Mine as being much heavier than that blue cement, do you not? rocks much larger?

A. Yes, there are more large—

Q. (Int'g) Three or four times as many I suppose?

A. Yes.

Q. Those were boulders, I suppose, washed stones? A. Smooth

8319 boulders, smooth washed boulders

Q. And these are the stones which form what you call the Polar Star dump? A Yes.

Q It is those big stones that you find in the Polar Star dump?

A Yes. After they have been broken up

Q. Oh! You break them up do you? A. Yes.

Q Into what size?

A Well, we can run boulders through the tunnel 2½ feet in diameter, three feet if they are and where near round

Q. Those are the stones which form this Polar Star dam or dump, are they? A Yes.

Q Those large stones?

A Those broken rocks and boulders

Q How much do they weigh?

A I never weighed any of them

Q Well, on an average? two or three hundred pounds?

A Oh, larger than that I should judge; 500 pounds.

Q What is the grade of your

8320 tunnel in the Polar Star?

A. Ten inches to 12 feet

Q That is a very high grade is it not? You make it high in order to get rid of those big rocks, do you not?

A Yes.

Q. How much water do you use there? A. 1900 inches

Q Bear River is quite a small stream, is it not, as compared with the American River?

A. It is a smaller stream than the American

Q A good deal smaller, is it not? A. It gets very high, in floods. There is a large water shed at the head of Bear River and that makes it very high in flood time

Q It is only a short distance from there to the head of Bear River, is it not?

A I do not know the distance

Q Bear River does not go as far into the mountains ~~for~~ by 30 or 40 miles as either the American or the Yuba, does it

A I cannot answer that.

I never have been up there

Q How much water is there in Bear River at your dump in the low, or in the summer stage?

A It gets very low in the summer, but I do not know. I would not judge there is more that 500 inches there in the summer.

Q How much water was there there say about the 1st of August, this year?

A Well, I could not say

Q That was the low water stage was it not?

A That is the low water stage when there is no mining above

Q You say that this Polar Star dam or dump makes a lake above? A Backs the water up

Q And every freshet tears down the hilly side of the dam, and lets the water out of the lake?

A Yes. A heavy freshet lets the water off

8327 Q ~~Mean~~ So that it is only during the summer season that you have a lake above that dam? This dam I suppose is something like a pile, is it not?

A. It is, right below the dump where this heavy material is dumped into the river

Q The heavy material lies right at the dump does it not?

A. It shoots clear across the river. There is a grade from the dump to the other side of the river

Q. How high is your dump there above the bed of the river? Or the mouth of your tunnel? A. I showed Judge before it was filled up it was 400 feet

Q It is still a considerable distance now above, is it not? A. It is filled up a good deal now

Q. To Mr. Byrne you said that the practice there was for mines to dump into the nearest or most convenient Ravines?

8823

A. That has been the universal custom and practice

Q. You mean by that I suppose that they dumped where they please? That is, there was nothing compelling them to dump in any particular place?

A I have never heard the right questioned

Q. That was not my question. There was no local law or regulation compelling them to dump in any particular place?

A. There has been no mining law.

Q. No mining laws on that subject? The miners did just as they pleased. There was a good deal of mining was there not, where the dirt was scraped out and thrown up on the sides of the ravines in the summer and washed when the water came? A. There never has been any of that kind of mining at Dutch Flat.

Q. You say the ground was 8324 owned originally by small companies

Companies how large? How many men? A. I could not estimate the number of men in each company

Q You said there were about 25 or 30 of these companies?

A Yes.

Q How many men to a company?

A Well, there were by 2 in the company I owned in

Q Well, as a general thing?

A As a general thing, I could not say

Q. 3 or 4? Give us an idea. I want to get at the number of persons mining. You said there were 25 or 30 companies

A. Claims, different claims

Q. You mentioned companies. I suppose the companies had claims. Give me an idea about how many miners there would be in those 25 or 30 companies

A There might have been 100

Q. In all of them?

A In all of them

Q That would be a large
8325 estimate would it not?

A. I do not know as it would

Q. It would be a fair one then. That would make 100 persons engaged there then in mining. Are you willing to swear there were that many?

A From 1865 to 1875 do you mean

Q. No. Prior to 1865, when you said there were 25 or 30 companies working there at Gold Run

Mr Byrne He said between 1865 and 1875, after 1865 and before 1875

Mr Cadwalader I am now asking him as to before 1865

The Witness Well I did not understand you. These claims were not all working before 1865

Q That does not make any difference. Were there as many as one hundred miners working there before 1865? A Yes.

Q That would be a fair number? A Yes, there might have been more than that; I could not say.

Q You think that is fair do you?

A I should say there was more than that sooner than there was less.

Q Now you say the number of mining Companies

8327 is reduced to three in the

Gold Run District? Is that so? A I said there were only three that could ~~you~~ use water

Q I am speaking of working? A Working - yes

Q There has only been three there in the last few years?

A Last year there were only three Companies running

Q What Companies were they? A I do not know what names they went by except the Excelsior

Q One was the Gold Run was it not? A Three besides that, three besides the Gold Run

Q Another one was the Gold Run Hydraulic Company, Limited, an English Corporation was it not?

A Yes.

Q What are the names

8328 of the other two?

A I do not know what names

Q They were all corporations were they not? A No, the Excelsior is not an incorporated Company

Q Three then besides the Excelsior; and they are doing all the mining at Gold Run are they and have been for the last few years? A For the last year

Q How many men are employed in those mines — that is during the mining season, six months in every year?

A I do not know how many men they employ in the Indiana Hill Claims

Q How many men are employed during the mining season by those four Companies — the three Corporations and the Excelsior Company?

A I do not know how many men they work. I was not there during the water season

Q You really do not know.

A It would be only hearsay

Q When did you first go there? A 1865

Q And up to 1865 there were only about 100 miners working in the Gold Run district? A There might have been more than that

Q You were a miner there yourself were you not?

A No, I was living at Dutch Flat.

Q You were down at Gold Run were you not?

A I was occasionally

Q When did you commence mining at Gold Run?

A In 1865

Q Where did you live?

A I lived at Dutch Flat.

Q Did you ever live at Gold Run? A No, I

8330

never had my family there

Q You had your family at Dutch Flat? A yes.

Q Where is that Golden Gate claim? Just pull that map down and put your finger on it

A There <pointing>

Q Was that a ravine claim or a hill claim?

A Hill claim

Q What is the size of it?

A I do not recollect the size of it. I never located any ground there.

Q Was it square?

A No. It was about the shape of that <pointing>

Q You do not know the size of it? A No

Q How long did you work that claim? A I commenced working it in 1865. I do not recollect the time that I sold out

8331 Q You commenced working

there in 1865?

A Yes. I bought in in 1865.

Q Well about how long?

A It was some time in 1870

Q You worked it till 1870? A Yes.

Q Who did you sell it to? A H. H. Brown

Q You then did not sell to the Gold Run Company? A No.

Q How did you work that claim?

A Hydraulicked

Q Did you work through a cut into Cañon Creek?

A Yes.

Q And a tunnel?

A No. I think in 1869 we worked it through a short tunnel

Q How much water did you have there?

A As near as I can recollect we used 300

8332 inches

Q What kind of stuff did you wash away?

A Fine gravel and sand; very few large rocks

Q. Cobble stones? A Yes

Q How large would the rocks be? A The size of a man's head

Q It is what you call a gravel bank is it not?

A Yes, a gravel bank

Q Did you work down to the rim rock?

A I did

Q You did not go below?

A Not much below the rim rock, until after we ran the tunnel

Q Well after you got your tunnel, how much of a bank did you have?

A I think we had between 50 and 70 feet after we run the tunnel. The surface was gone

Q The gravel bank, what was the color of it?

8333 A Yellowish gravel

Q Did it look like that in Boxes 1 and 2?

A It was something the color of that.

Q From the top down? You started under the pees did you not?

A No we started down in the ravine, had quite a high bank. The first time we worked it over we had 100 feet

Q 100 feet of gravel?

A yes.

Q You say that you saw one big boulder in the Gold Run pit. When did you see that?

A I saw a good many of them

Q Well a good many then? A I believe it was last Thursday

Q Where were they? in the bank or on the bed rock?

A I saw some in the

8334 bank and some on the

bed rock

Q How many did you see in the bed rock?

A I saw a good many I did not count them

Q Was not the bed rock remarkably free from heavy stones?

A Not where it had not been cleaned off

Q What? A There was a portion of the bed rock that had been worked

Q Where it had been worked there were no boulders at all. They had all disappeared?

A Yes; been broken up and run off

Q Well that is, if there had been any they were broken up, but if there were none they had not been broken up? I suppose that is what you mean?

8335 A I do not think that

there had been one place there where there had been no boulders in that channel. The boulders lay pretty thick in the ground that had not been washed off

Q What do you call a boulder? A A rock 10 or 12 feet in diameter I call a boulder

Q How many did you see in the Gold Run pit? A 8 or 9 feet through

Q How many of those did you see in the Gold Run pit?

A I could not tell; I did not count them

Q- You are satisfied you saw one are you? A- Yes.

Q- Did you see any pipe clay in the bank in the Gold Run pit? A- There was pipe clay on the west side of the claim? Q- How high
8336 up above the bed-rock?

A- Well it was very near the surface. I think about 250 feet above the bed-rock.

Q- You say you crossed the river at Fords Bar? You were at Fords Bar in October of this year? A- Yes

Q- Whom did you go there with?

A- With Mr. Isaued.

Q- Who else? A- Mr. Kinder Charles Carr and Phillip Larsen.

Q- What did you go there for?

A- To see the river and view the debris.

Q- You went there expressly to view the debris did you?

A- Yes.

Q- And from there you went down to Rice's Bridge?

A- We followed the river down to Rice's bridge.

Q- Then you went where?

A- Up to Colfax.

Q- Colfax? A- Yes

Q- That is all the river, you saw? And you had not seen it before since when?

8337 A- I think it was in 1860 that

I crossed it.

Q- That would be twentyone years? A- Yes.

Q- Where did you cross it? A- At Fords Bar.

Q- On this occasion in October of this year how much time did you gentlemen spend from Fords Bar to Rice's Bridge? A- Well nearly all day. It was dark when we got up to Colfax

Q- Did you see any of that conglomerate down there? A- I do not recollect seeing any of that.

Q- You went there to see what you could see, did you not? You said that the river appeared to taper up and down- or rather tapered down to Rice's Bridge from Fords Bridge? A- Yes.

Q- You mean by that I suppose you found little or no deposit in the river at Rice's Bridge? A- Very little

8338 Q- You found a good deal

at Fords Bridge. You did not measure it did you?

A- No Sir.

Q- Did the river appear to be graded? A- Yes, a regular grade.

Q- A regular grade as far up as you could see? And as far down as you went?

A- Yes, as far down as -

Q (Intg) What was it graded with + what was it paved with I will put it in that way?

A- Rocks and sand.

Q- Both the bed and the channel? A- Yes.

Q- Were the cobble-stones laid in regular order as if somebody had been trying to make a pavement?

A- I noticed several large bars where it looked as though it had been paved on the surface.

Q- The same way in the bed of the river was it not?

A- The river was running

- when the water was running it was probably five or six feet below the top of the bar.

Q- It seemed to be paved too did it not with cobbles?

A- Yes

Q- Did you notice that the cobbles grew smaller as you approached Rice's Bridge?

A- Yes

Q- You did not measure the depth of the deposit any place did you?

A- I did not.

Q- You guess that it was 60 feet? A- I was familiar with the land marks at Fords Bar and I could tell very near how much it was filled up right at Fords Bar bridge.

Q- You had been familiar with it twentyfour years before I suppose?

A- Yes. I crossed it many a time.

Q- You never stayed two

minutes and a half at Fords Bridge did you at any time in your life? A- Yes.
Q- When? A- The Summer of 1854?
Q- 1854? A- Yes.
Q- How long did you stay there then? A- Well, I had some friends mining there and I stayed with them over night.
Q- Did you arrive late in the evening and leave early in the morning? A- No Sir
Q- You did not? A- No Sir.
Q- Where were they working? A- On Fords Bar.
Q- On Fords Bar? A- Yes.
Q- What time did you arrive and what time did you leave? A- I do not recollect.
Q- That was twenty seven years before was it not? A- It was in 1854.
Q- That was the only time you spent two minutes and a half there?
8341 A- I spent some longer time

than that there. I have spent two hours there many times but I could not say when.

Q- You went there to cross over did you not?

A- There was a great deal of travel on that trail.

Q- Going over towards Iowa Hill? A- Yes.

Q- What made you think the deposit there was 61 feet deep — 60 feet deep, Mr. Harriman? A- Well, I knew about high the Toll House stood from the bed of the river. I have noticed it a great many times, and the hight of the bridge from the river I have noticed.

Q- Was it the same Toll House that had been there?

A- It is buried up now where the Toll House stood.

Q- You could not see where it had been? A- I could tell very near by the trail that went up beside the mountain above it. It

8342

was quite a rise to the Toll House.

Q- That is if the trail had not changed?

A- I do not think it had. Everything looked familiar to me where the ground had not been covered up

Q- Twenty-one years, naturally would make a great deal of difference - particularly to your eyesight?

A- It had not there. It made some difference in the looks of the river.

Q- What was it filled up with - what kind of material?

A- Boulders, pebbles, cobbles and sand.

Q- When was it filled up?

A- I do not know.

Q- Do you know where the filling came from?

A- It came from the mines.

Q- Came from the mines?

A- Yes.

Q- You say it kept on taper-

8343 ing down until you got to

Rice's Bridge? What was the fill at Rice's Bridge.

A: I did not measure the depth.

Q- The bedrock is visible there? A- Just below the bridge the bedrock is visible.

Q- Is there any obstruction to the current at Ford's Bridge? That would make the deposit 60 feet there and nothing at Rice's Bridge. Is there any way you could account for such a hump in the river? A- No Sir.

Q- If there was a fill of 60 feet there the river could not be graded, could it. That would be back water above? A- No Sir. It was all full of tailings— a regular grade The water was running uniform right along.

Q- If that were so, the grade would be greatly increased between there
8344 and Rice's Bridge, would it

not? A- I do not know what the grade of the river is.

Q. What is the difference between those two places? What is the difference between Rice's bridge and Ford's bridge?

A 6 or 7 miles

Q 6 or 7 miles? A Yes

Q If there was a fill there of 60 feet it would show itself in the grade of the river, would it not? A It would increase the grade from there down

Q And if there was no increase in the grade you would be mistaken in regard to the fill would you not?

A No sir. I could tell that by the landmarks.

Q Well now, did you or did not say that there was also a tapering up stream? A No sir.

8345 I think not.

Q You think there is none? How far is it from Pickerings Bar to Ford's Bridge

A I think something over two miles

Q If there was a fill at Fords bridge of 60 feet there would be a complete obliteration of the grade between Pickerings Bar and Ford's Bridge would there not? A Obliterating the grade?

Q Yes. A No sir

Q If there was no fill at Pickerings Bar and 60 feet at Ford's bridge it would destroy the grade entirely would it not A No sir

Q Suppose the grade was only 30 feet —

A <intg> There would probably be less grade from Pickerings Bar

Q Suppose the grade

was only 30 feet to the mile originally and you find a fill of 60 feet at Ford's Bar and none at Pickerings Bar, there would be a complete obstruction of the grade would there not? A The grade is very light

Q Did you notice any difference in the velocity of Fords Bar and below?

A No sir I did not. I did not observe

Q If your theory is correct now that there is a fill of 60 feet there there would be no current above and a very heavy current below? because in the upper part there would be no grade and below there there would be 60 feet to the mile?

A I do not know how far it was filled up

8347

above

Q Now I will ask you whether there would not be necessarily no current-little or no current above Ford's Bridge and a very heavy current below?

A It is all filled up above

Q It is all filled up,- that is according to your theory. I am asking you this: suppose there is no filling at all at Pickerings Bar and 60 feet down at Ford's bridge and the grade only being 30 feet to the mile there would be no grade on that section of the river? A The grade would be very light.

Q And you would have noticed that in the current if that had been so and yet you say you noticed no

8348 change in the current

above and below?

A If it had been so I would have noticed it certainly

Q The river was running just about the same as far up as you could see and as far below as you could see?

A I followed the river right down

Q Is it not true beyond any question that the river has just about the same grade from Pickering's Bar down to Rice's bridge that it had when you first knew it? What is your answer to that?

A I do not know

Q And is it not impossible that there could be that hump in the bed of the stream 60 feet high
8349 at Ford's Bar?

A It is filled up above Ford's bridge. You cannot see any bed rock above Fords bridge in the river.

Q Until you get to the head of Pickerings Bar?

A You cannot see any bed rock there

Q It has been testified here that there is filling there at all. All the witnesses agree that the filling commences there? A It is filled up a great deal

Q But 20 witness testified to that? A. That there is no filling at Pickerings Bar?

Q Yes. A Somebody is badly mistaken

Q If there was a fill of 60 feet at Ford's Bridge as you say, there would be no current above there?

A If it was exactly two miles it would be a very small current. Very light

Q What rate was the Current running when you were there above and below the bridge?

A I Could not tell how fast it was running.

Q The flood of 1881 was very heavy up there was it not?

A Yes, it was a pretty heavy flood.

Q It washed away the Hither side of your Polar star dump and emptied your lake?

A It drew the water off. The water run out of the lake.

Q It did it by washing Away the hither side of your dump?

A It made a new Channel through the point of the hill, on the opposite side of the River.

Q Why would not a greater force of water in the American Cut this hump off of the bed of the Channel?

Mr Byrne The witness has not said anything about a "hump" that is your term

Mr Cadwallader What is the reason it would not cut it off?

A It sweeps the tailings from above and leaves them there

Q The River had velocity enough to cut itself down to a thirty food grade did it not through the solid rock?

A I do not know what the grade of the River is

Q If it was thirty feet the River itself did the cutting through the solid rock?

A I do not know anything about what the grade was.

Q Would not it move it if the River itself cut a cut into the solid rock until it got down about thirty or 36 foot grade — It would certainly move

8352

Cobble stone wouldnt it?

A I do not Know I never saw it in high water

Q You could immagine what eight or ten times the Water you have at your dump would do in the American River on that pile of Cobbles. You do not Know of any in-equality in the bed of the American River do you, such as you Speak of at Fords Bar?

A A regular grade from there as far as I went, There are not obstructions in the River except its being filled up.

Q What would you take the grade to be from Fords Bridge down to Rices bridge?

A I do not Know what I would estimate it to be

Q What would you take the grade to be above Fords bridge — about the same as below?

8503

A Very near the same as

below.

Q A rising grade all the way. You could see that I suppose looking up the stream could you not?

A The grade must be a little less above Fords ~~I~~ above the bridge than it was below.

Q But not enough to affect the current?

A Not enough so that I noticed it.

Q What is the population of Gold Run?

A About 400.

Q About 400?

A Yes.

Re-direct Examination of S. B. Harriman

Mr Byrne — Mr Harriman did you say there were eight or ten times as much water in the North Fork as there were in Bear River —

Mr Cadwallader No he did not say that. He said there was 500 inches in Bear River –

Mr Byrne What is the fact in regard to that?

A Do you mean during a freshet?

Q I mean at any time?

A No I do not think there is.

Q Do you know about what the difference is between the size of the two streams relatively?

A When I was there in October I should not Judge there was over 2000 inches in the north Fork.

Q How did that Compare with the quantity of water in Bear River?

A Bear River gets down to less than 5

Q During times of freshet what is the relative size of these two Rivers?

A I could not answer that.

Q You do not know that?
A No sir I never saw the North Fork in a time of high water.
Q Do you think there is eight or ten times as much water in the North Fork as there is in Bear River during high water. Mr Cadwallader tried to get you to say so. Is that a fact
Mr Cadwallader I did not say so
Mr Byrne Well do you know
A I do not.
Q Now you stated in reply to a question from Mr Cadwallader that last winter the flood of 1880-81 the water had cut a new channel through the point of the hill on the further side of the Polar Star dump. Is that correct?
A Yes.
Q Then it did not wash the dam away?

8356

A No sir.

Q Or any portion of it?

A Very little of it.

Q It cut a channel in the hill side?

A Yes.

Q On the further side of the dam?

A Yes right through the point of the hill

Q Did you say there was no fill or any tailings at Pickerings Bar?

A No sir.

Q What depth of tailings did you say is there or was there in October?

A I am not acquainted enough with the River to make an estimate. If there had been any land marks that I had been familiar with I could have told something about it.

Q You know there were some tailings there?

A Yes

Q Can you not give the

Court some sort of an Idea as to the depth of these tailings?

Mr Hart objected to the question upon the ground that the witness has shown himself to be incompetent.

The Court He has said that he does not Know

Q Did you say to Mr. Cadwallader that there was a hump in the River at Fords Bar?

A No sir

Q Is there any hump there?

A No sir.

Q In answer to Mr Cadwallader you said that you saw some pipe Clay on the East rim of the Indiana Hill Claim — 250 feet from the surface — 250 feet from the bed rock I mean?

A On the West side

Q I though you said on the east side. Is there as a matter of fact any pipe Clay in the lower pit

Or hard bottom of the Indiana Hill Claim?

A No sir

Q There is not?

A No sir

Q. There is not? A No sir

Q. You spoke of some stones or boulders being about the size of a mans head, in the upper stratum of the Golden Gate claim when you were working it? A Yes.

Q Let me ask you about how frequently stones of that size occur or do occur now in what remaining in the upper stratum. Is it a frequent or is it of rare occurrence to find boulders of that size?

A It is a rare occurrence to find boulders of that size

Q. A rare occurrence?

A Yes.

Q. What was the distance of the first stope or bench that you washed from the Golden Gate, through the open cut, I mean?

A As near as I can recollect it was 100 feet

Q What is the depth of the second bench that you washed through the tunnel?

A Between 60 and 70

Q I ask you if that is a fair average of the depth of the surface washing in the Gold Run District. I mean during all the years of the Gold Run washings during say from 1860 to 1875 — is it about the same depth?

A No sir, I do not think that would be a fair average

Q State what the fact is in regard to it?

A I should think say 80 feet would be a fair average

Q 80 feet for the whole distance? A Yes. Those claims were worked lower than most of the others above

Q. Mr. Cadwalader endeavored to make you say that there were three Corporations besides the Excelsior claim operating at Gold Run last season, is that so? A I did not say there were three corporations.

Q. I know you did not, but he represented that there were. State now how many of the claims were working there last year? A. There was the Stone Claim —

Q That is the New Gold Run Company? A Yes. and the Excelsior —

Q Is that a corporation?
A No sir

Q Name the others?
A They worked a little in the Sachs claim

Q They worked a little in the Sachs claim? A Yes.

Q. Any other?
A None that I know of

Q None except the Gold Run Company? A. No sir

Q. But 2 corporations?
A Yes, 2 corporations

Q You were asked how many

men were working in that district prior to 1865 - I ask you how many were engaged between 1865 and 1870 after the completion of the South Yuba Ditch?

A Probably 200 or 300

Q You were also asked if the miners did as they pleased in reference to discharging their tailings in operating their claims. State to the Court what the practice was in reference to discharging tailings from the claim above onto the claim below, and state also what instances you know of it having been actually done

Mr Cadwalader I object to the question on the ground that it is not redirect examination

Mr Byrne I offer to show by this witness that there have been within his knowledge, instances where the owner of a claim occupying a higher position or further up the ravine, discharging onto and upon the claims of the mining proprietors below and covering them up, and actually filling up the flume and that it was a part of the unwritten law of the district that they had a right to do so, and that they exercised that right. It is a part of the universal use and practice and custom in that mining district so to make use of these outlets

The Court. Sustained the objection

Mr Byrne I now ask leave of The Court to ask this as an original question, as tending to illustrate an important point in this case in support of our theory. I ask leave of The Court to ask this as a direct question

Mr. Byrne (after discussion) I will withdraw the question

Q. I want to ask you: You spoke of these large boulders, being broken up and sent through the Polar Star tunnel. Are large boulders in the Gold Run claim disposed of in the same manner — in the Indiana Hill claim? A. Yes.

Re-cross-Examination
of
J. B. Harriman

Mr. Cadwalader How do you know? A. I did not see any on the bottom of the ground where they worked and where it was unworked it was covered, and I saw that there were boulders in the river

Q. You never saw them disposing of any boulders in that way did you?

A. No sir I never was in the claim

Q. You only infer that they did it?

A I know that they must have done so, I say I never was in the claim since they opened the deep pit when the water was on.

Q. I want to ask you one more question; how much water did these claims use, the ones that you named to Mr. Byrne you named certain claims to Mr Byrne as being operated this year at Gold Run?

A. I do not know the amount of water they use.

Q. You do not know how much either of them has used?

A. No, I was not there during the water season, I never saw the water in in either claim

Q. On any of the claims worked there this season?

A No sir

—— " ——

Testimony
of
H. H. Brown
recalled

Mr. Byrne. You informed me yesterday that there were some corrections you desired to make in your testimony as reported?

A Yes sir

Q In the newspaper at least. Will you read the statement.

A. In estimating the gold yield I was reported as saying "from 1855 to 1868." It should be from 1865 to 1878. In regard to the completion of the Indiana Hill ditch the paper states it was 1854, it was 1852. In locating the Cold Springs, it read, about one mile north east of Gold Run; it is south west of Gold Run, Gold Run being between Cold Springs and Dutch Flat, and in all places where Little Fork appears it should read Little York

The Court. I presume those are not in the official report, I presume it is correctly reported.

Mr. Byrne. Since you were on the stand before have you made an observation of the North Fork of the American River? A. I have

Q. When did you say you were first familiar with that stream? A. In 1850-1 and then from 1855 to 1861 — particularly from 1855 to 1861

Q. State how often you saw it and what occasion you had to be there, and go there? A. I was in business there at Cold Springs and delivering goods on pack animals and I frequently went with the animals, not all the time, going soliciting bills and collecting and up and down the river probably I would average 2 or 3 times a week during the summer time only.

Q. What portions of the river were you then familiar with?

A. From the mouth of Secret Canon up the river, probably 15 or 20 miles.

Q. How far from the mouth of Secret Canon above Rices bridge? A. I do not know exactly. I have crossed Rices bridge a good many times, probably 3 miles or such a matter I do not think it is more than that.

Q. From Secret Canon to the mouth of Canon Creek you are familiar with the river?

A. Yes sir, I have been on it a great many times

Q. Now state to the Court the average depth of the tailings in that portion of the river of which you have spoken according to your opinions as formed from your recent investigations?

A. Secret Canon is the first large Canon coming in on the north side below Canon

Creek. I did not go to the mouth of Cañon Creek. I was at Pickering Bar. I went on the river at Fords Bar and walked up the river afoot to Pickering Bar. At Fords Bar where the old toll house was there are no signs of it now, it is all filled in, I judge it is 70 feet deep there and at the lower portions of Pickering Bar, at least 20 feet possibly 25, and going down from Fords Bar it holds up pretty well around the first bend say a half a mile, I think they are all of 70 feet, and then it diminished gradually from there down as far as I went, probably diminished as much as 15 feet down to the mouth making some 40 or 50 or 55 feet probably at the mouth of Secret Cañon

Q From that point how far down the river could you see?

8369

A. Well, not far.

Q. What was the appearance of the river so far down as you could see it?

A. It seemed to be a gradual slope as far as I could see.

Q. Now state to the Court or mention to the Court any land marks by which you make this estimate?

A. Well, they are very distinct on the river there. There is a system of bars or benches sometimes on one side of the river and sometimes on the other. Now, at Pickering's Bar the trail comes right down on to that bench before going to the river. Those benches were about 100 feet above the river originally; sometimes ~~and particularly~~ on the ~~west~~ one side of the river and sometimes on the other — at Pickering's Bar it is on the north side of the river. As you go down opposite to Parkers Bar there is a similar bench on the north side and at Fords Bar as they call it now the bench is on the the other side — Fords Bar proper is all covered up — as you pass along down the river you come opposite High Bar and then again it appears on the north side. Those benches were just about parallel with the bed of the river, probably formed at the same time. The former bed of the river, they were about 100 feet from the river. My knowledge of the tailings is based on that. There is another point however below Pickering Bar where there. I mined in 1859 on a bench of rocks 25 feet from the river. In the neighborhood of that, there came a heavy rain and in a few hours the water raised 15 feet and swept everything, flumes and all out of the river. I was in the City at the time and on returning I went down to that particular place and camped there at the time and I could see where the water came up and that point is all covered up now, at least 23 feet of tailings there.

Q Where is that?

A That is the first point below Rickings Bar on the south side. I have not any doubts whatever about that.

Mr. Cadwalader What distance do you make that?

A Oh, it is not 1/4 of a mile, around the first bend in the river.

Mr. Byrne. State any others that you recollect?

A I do not recollect any other.

Q. And you average the whole at 35 feet, I understand you?

A. 45 feet above Fords Bar, and diminishing below there, probably to 30 feet as low down as I went

Mr. Hart. Diminishing to 30

feet? A. No, from 70 feet to 50 feet from Fords Bar down to the mouth of Secret Canon, it would average about 45 feet. I called them only 20 feet at Pickerings Bar. I think it is 5 feet more— it would be an average in my judgment of about 45 feet from Pickerings Bar to Fords Bar.

Q And from there down?

A From there down for a half a mile, they hold out nearly 70 feet and then diminish down to 45 or 50 feet at the mouth of Secret Canon

Q. Did you go below the mouth of Secret Canon?

A I did not

Q. In how many different counties in this State have you been engaged in mining?

A Well, Placer, Nevada and I also mined in Idaho Territory a short time some 3 months.

Mr. Cadwalader You went into

that.

Mr Byrne. It is preliminary to another question. Do you know of any general practice or usage existing in California in reference to the working of mines and the dumping or disposing or discharging of tailings from the mines into the ravines

Mr. Cadwalader I object to that. He went into it on the day of our adjournment.

Mr. Byrne I did not. I can not be mistaken about that. Did I ask you that question before? A I think you did

Cross-Examination
of
H. H. Brown

Mr. Cadwalader. You say from 1855 to 1861 you became familiar with the river from the mouth of Secret Canon to the mouth of Canon Creek?

A Yes sir; and above there

Q How many times were you

there between 1855 and 1861?

A I could not tell how many times - I was there every few days, different places along. Those trails I expect I was as familiar with as you people are with the City here.

Q. Where was ~~the~~ Secret Canon with reference to Cape Horn?

A It is above Cape Horn.

Q How far? A. Oh, probably a mile and a half or two miles.x

Q Secret Canon comes down from that same divide does it not? A. It heads up in what is known as Secret town up at the railroad

Q. A short distance below Gold Run? A About two miles below Gold Run, the head of it is

Q Well, this section of the river that you have been speaking of is not more than two miles long is it?

A About four

8395 Q From the mouth of Secret

Cairn to Pickering's Bar?

A It is nearly 4 or quite.

Q Well, how do you know it is four?

A Well, I have been over it so many times, I judge something of the distance I never measured it

Q You have been over it once in 20 years, that is not a great many times, is it?

A My recollection of 20 years ago is very distinct about that locality

Q What was the grade of the river originally between Pickering's Bar —

A I do not know

Q. Well, between Cairn Creek and Fords Bar?

A. Well originally there were places, that were still and occasionally quite a riffle

Q But as a general thing?

A I could not say what the grade was.

Q About 30 feet to the mile was it not? A I do not know

8376

Q. Now you speak of there being a fill of 20 feet at the foot of Pickerings Bar. Did you go to the head to see whether there was any fill there?

A I did not go to the upper end of the bar, I went to this bench on the river

Q How do you know there was a fill of 20 feet?

A, I did not say there was a fill of 20 feet at the upper end of the bar

Q But you said at the lower end? A I said around the point.

Q I know you said that at the foot of Pickerings Bar there was a fill of 20 feet?

A I have no doubt but what it is more, not the least in the world.

Q That is not exactly the question. Now you say for 4 miles down that fill keeps on increasing until at Rods Bridge it gets to be 70 feet?

A. 70 feet on the south side.

The tailings are considerably higher than the present water

Q Now tell us how much the fill is in the lowest part

A. Oh, there may be 10 or 12 feet difference in places, some time 5 or 6

Q Why didn't you tell us that before? A I was telling about the tailings

Q You were not talking about the fill where the water runs, were you? A The water is changing from one side to another from appearances.

Q It runs up hill there? Now what is the grade of the river from the foot of Pickerings Bar to the mouth of Secret Cañon?

A I do not know, it seems to be pretty even, there are places the stream is a little more rapid, I think below Fords Bar it is rapider. I crossed it a great many times in going down back and forth.

Q. You said it was very evenly graded, did you not?

A Pretty evenly graded

Q Did you notice any difference in the grade of the river at any of these places?

A I think that there is less grade above Fords Bar than there is below

Q You think there is less?

A Yes sir

Q. Did you notice any change in the current?

A Well I judged the grade by the current

Q. Well, how much of a difference?

A Well, I could not tell how much

Q. What difference is there in the grade between Secret town and the lower end of Pickerings Bar, or rather the mouth of Secret Ravine and Rices Bridge?

A. I do not know anything about Rices Bridge I did not go there. That was a part of the river I was unfamiliar with.

Q When you looked down in the river from the mouth of Secret Cañon did you see any difference in the grade there and above? A From the point I was I could not see more than a quarter of a mile

Q You saw the stones graded didn't you?

A yes sir

Q They had been graded by the water?

A In those bars generally on the short bends of the river they are thrown up thick

Q They are always graded in the channel are they not?

A. I could not judge of that only in riding over on horseback we found the horse would step on rocks and slip and stumble somewhat.

Q I am asking for your

observation not for your criticism. I want to know whether the stones are not graded in the bed of the river?

A I do not know whether they are or not

Q Didn't you see them?

A I could not see under two feet of water very well and ~~under two feet of~~ a little muddy at that

Q The water was muddy when you were there?

A Slightly colored

Q But as far as you could see the cobble stones they were graded?

A Outside of the water they were

Q From the foot of Pickerings Bar down to the mouth of Secret Ravine? A About the same appearance all the way

Q Stones laid in shingle

fashion are they not?

A Well there were bars It looked as though they had been thrown up to one side and the water striking on the other side had a tendency to pile them up, not regularly however as far as I noticed

Q Do you think it is possible that a person could go into the bed of the river and after having been away from there 20 years and in so short a time as you were there a few days ago, make a very correct observation of the changes that have occurred in that river bed in 20 years? A I do if a person has landmarks that he is satisfied are a certain distance from the river

Q Did you become satisfied

that it was impossible that that stuff could have lodged there to any great extent? A No sir

Q Didn't you become satisfied that the flood of 1861 moved nearly everything out of there?

A I did not become satisfied of anything of that kind

Q Are you not satisfied that the flood waters of 1881 moved everything out of that section of the river or substantially so?

A It is not so because everything is there now

Q Well is that your only reason for thinking so?

A Well is not that enough? It is there evidently

Q This Gold Run mine has been working five or six months since and there are other mines since, the Iowa Hill mines - did you see the dumps of the Iowa Hill mines?

A I say there is one mine running on the Iowa Hill side. I saw their tailings.

Q Did you see any inequality on the surface there? A yes sir, a little fresh material coming in

Q All the stuff that they had put in had disappeared so far as you could see?

A I did not see any inequality of the old tailings, it was just fresh washings piled up on that side

Q But not to amount to anything? A No great extent.

Q How many dumps are there on that side the South side of the river between the mouth of Secret Cañon and Pickerings Bar, the foot of Pickerings

8385

Bar? A There must be three, I think as much as that

Q The hydraulic mines operating in the neighborhood of Iowa Hill, If the grade of the river between the mouth of Secret Ravine and the foot of Pickerings Bar was originally only 60 feet to the mile your filling of 70 feet could not exist could it? A That four miles would be 240 feet wouldn't it?

Q Your fill of 70 feet – that could not be true?

A I do not know why it could not.

Q Well there would be no grade left in the river would there?

A It is four miles from Secret Cañon Ques. But I mean from Ford's Bridge to Pickerings Bar? That is

30 feet

not four miles is it?

A About two

Q About two miles; a great deal of difference between 2 and 4 is there not? A There would be a grade of 120 feet if you say there is a grade of 60 feet to the mile

Q I did not say 60, I said 30

A I understood you to say 60

Q I will put it again; if the grade of the river was originally 60 feet to the mile between Fords Bridge and the end of Pickering's Bar then there could not be a fill of 70 feet at Ford's Bridge without setting the water back could there, ~~with~~ or destroying its current entirely? A. There certainly could if there was

25 feet of filling at Pickering's Bar

Q But I am supposing there is no filling at the head of Pickering's Bar? A I do not suppose anything

Q You do not? Well suppose, as you say, that there was a fill of 20 feet at Pickering's Bar, then it should be dead water between Ford's bridge and the foot of Pickering's Bar?

A The water at Ford's Bar I say does not run on the extreme top of these tailings, it runs in the lowest place

Q Why didn't you tell us that before? How low down does it run?

A Maybe 15 feet from the highest place, 5 to 15 feet

Q Then you did not mean what you stated

8388

when you talked about its being 70 feet, it has got down to 55?

A 70 feet of tailings, I say so yet

Q That is on the banks and 55 feet in the lowest place? Well now what is the highest fill in the lowest place at the mouth of Secret Cañon? A Well I judge it is about 45 feet there, from 45 to 50 feet

Q How much would you think that there was in order to get to the bed? A I judge that from the benches that make their appearance along the river there

Q That is all. You said to Mr Byrne that you first saw hydraulic mining at Little York in 1854? A It was at Nevada in 1853 the first I ever saw

8389

Q Well I am speaking about your testimony. Did not you say that you first saw it at Little York in 1854?

A I do not think I said so

Q You mean then at Nevada that you saw it? A In 1853

Q What kind of hose was used then?

A Canvas hose

Q What kind of nozzle?

A Oh a very small affair. It may have been a tin pipe or sheet iron, perhaps the nozzle was not over an inch and a half or an inch and a quarter in diameter

Q Something you could put into your vest pocket, I suppose?

A Very nearly

Q Did you locate the Indiana Still ~~mines~~ claim? A Some portion of it

Q What part of it?

A The extreme Southwestern portion

Q How large a location did you make?

A That was a portion of the ravine claim that I located there at that time

Q You located a hill claim there?

A A ravine claim

Q That was 100 by 25 feet? A 100 feet long by 25 feet wide, the first location

Q How long did you continue to work there?

A Up to 1854. I sold it in the fall of 1854

Q Well mining at Gold Run did not amount to anything until 1865 did it? A Not extensive. There has been considerable mining there

Q But, done in a very

small way up to 1865?

A It was done with canvas hose

Q Well you had no water there of any account before 1865 until the South Yuba Canal got in? A No great amount, the Indiana hill ditch and the Badger and Gardner ditch were furnishing a small supply.

Q Mr Sturreman said that it was done in a very small way up to 1865, and you say the same thing don't you?

A I would not say in a very small way. There were some quite extensive operations in 1864

Q Well you had canvas hose? A They were using canvas hose at that time

Q And winter water?

A What we called winter water two or three months

8392

in the year, some not over three

Q And these small nozzles? A They had increased the size of the nozzles at that time up to about 2 inches at that time or 2½

Q But you would call it small mining?

A Compared to what has been done there

Q Very small?

Mr Byrne Q Did you say "very small"?

A Comparatively small with what has been done since

Mr Cadwalader Q The Cold Springs Regulations were substantially like the early Gold Run Locations were they not?

A I do not know as I understand you

Q Well you had two; first a small district was formed? A The

8393

Indiana Hill district first

Q That was formed in 1853 and then the Cold Springs district was formed when?

A Mountain Springs it was called. About 1855, probably 1856

Q And I believe you stated that there had been no other districts formed there since?

A Yes sir. The Gold Run was all merged into one and the boundaries extended somewhat.

Q What is that?

A It was all merged into and was known as the Gold Run district and the boundaries extended somewhat, I think

Q That is the Mountain Springs? A Mountain Springs, Indiana Hill

Q Embracing Indiana Hill? A Yes sir

Q And you gave the size of that district as something less than 5 miles square?

A I do not think it is over 5 miles square

Q I believe you said it ran from Bear River to the American river?

A That is the North and South boundary

Q The North and South?

A Where the brow of the hill is

Q And the East and West boundaries are about 5 miles apart on the ridge. Squire's Cañon is the Eastern boundary of the Dutch Flat district and then there is some Cañon that I have mentioned as the boundary on the West of the Gold Run district

Q You gave the size of the hill claims as 200 feet square?

A That is the original size of the location

Q They were never enlarged? A I think not. At that meeting at the Gold Run meeting they did enlarge them, they were increased to 500 feet square at that meeting but the ground had all been located previous to that

Q That has been the largest claim that could ever be taken up there?

A 500 feet square, I think so

Q Well you know that to be so do you not?

A I think I do

Q You have no doubt about it?

A I have none

Q You stated I believe what the rules and regulations were confined to, the size of the claims and the manner of taking them up and the work necessary to hold them?

A yes sir

Q I asked you about the population of Gold Run within the years that you were there from 1865 to 1878 engaged in mining and you stated that in 1865 there were 250 and you said that in 1866 the largest number was 400. That is so is it not? A yes sir, I think that is so.

Q And what was it during the years between 1866 and 1878? A They diminished somewhat along

Q You stated the gold product was something less than $400 000 a year? A I do
8397 not know as I stated the amount from year to year
I stated the gross amount.

Q- Yes! Well you made it about four hundred thousand dollars a year did you not or about 8000 dollars a week?

A- I think it would run a littler more than $400000 a year. Some years it would run less and some years a little more.

Q- Well I want to get at just about the average? A- I think I can give it. Since I returned home I took the matter up and from a little more data I had I could tell you very nearly what was taken out from year to year, if you want it.

Q- Yes, I would like to have it. (The witness here produced a memorandum) Just give me that paper if you please? A- That is about what it was in those years. That is what I have actual knowledge of. In my testimony I said there was a million and a half

8398 more that I did not handle

Q- This was the earnings of four hundred men. They would earn, by this, about twenty dollars a week would they not?
A- I do not know what the average per man would be.
Q- But it becomes important to get at your views in regard to that. Here you have 400, 600, 500, 425, 325, 275, and 250! A- Those years you notice take part of two years — '65 and '66. The mining season you know embraces a portion of both years.

Q- The earnings, per capita would not be over twenty dollars a would, would they? A- I do not know I have made no calculation on it. I could make it of course if I sat down and figured on it.

Q- How low down had the mining population got to be when you left then in '78? A- I hardly know. I think the voting population was about one hundred at that time

Q- It had not been more than 100 for five years had it? A- I think it had. They polled over 200 votes there at one time.

Q- At what time?

A- I think it was 66 and 67 319 votes were polled there It was the largest precinct in the County at one time.

Q- But it got down to 100 votes? A- Yes. Less than that. Ninety odd. I think the last election I attended there 92 or 93 votes were polled there.

Q- What part of that population was engaged in mining?

A- They were all directly or indirectly.

Q- But what part of that population was working in the mines?

A- I do not think there were 100 men working in the mines at that time; less probably than 100 men.
Q- And was not all the work carried on by ~~three~~ three Corporations?
A- Not three corporations
Q- Well by what then, if you wont answer that way? A- There were two corporations in the district that I know of
Q- Tell us how that mining was carried on when you left there in '78?
Mr. Byrne - Speaking of the Gold Run Mines?
Mr Cadwalader - Of the Gold Run Mines?
Mr. Byrne - The Gold Run Mining district?
Mr. Cadwalader - Yes Sir.
A- At that time there was in operation the Gold Run Mining Company and the Gold Run Hydraulic

8401

Mining Co. Limited.

Q- That last is an English corporation? A- Yes. And then there was the Saxon Company. That was not a corporation.

Q- How many members did it have? A- Three at that time.

Q- How much water did they have? A- They had no water of their own; they bought it.

Q- How much water did they use? A- About 400 inches I believe.

Q- Was that all?

A- Hoskins and brother mined there then.

Q- How many of them were there? A- Two men owned the claim

Q- Did they only employ two men? A- They employed a good many more. Two were the owners.

Q- How much water did they have?

A- I think they used 500 inches. They bought it.

Q- Now I want to see whether I am right in my supposition that at the time you left there, or at least for a year before, the persons engaged in mining had got to be less than one hundred, and all the mining was done by these two corporations and these two companies: Is that right? A- No. There were other small companies that were operating.

Q- Just mention them. State how many? A- There was a company by the name of the Fishhawk that was operating occasionally.

Q- What do you call occasionally, A- Not every year. I think they missed one year. I think in '77 they were not operating. In '76 I think they did.

Q- They did not amount to much did they? A- They ran quite extensively when they could get water.

Q- How many men did they employ? A- They employed 8 to 10 men.

Q- What part of the year? A- Usually from January to June or July.

Q- Now from January until July, I mean from July to January, these 90 men were not engaged in mining were they?

A- Not in washing. They most generally had fitting up to do, getting ready for Winter operations.

Q- That was not what I asked you. They had nothing to do in the mines; the mines were apparently deserted during six months in a year? A- I could not say no to that. They had something to do in the Mines There was a great deal to do besides washing in the Mines.

Q- Now in describing the

condition of things at Gold Run have you not also described the condition of things at Dutch Flat?

A- No. I could not testify in regard to Dutch Flat. I was there occasionally but in regard to the mining there I was not well posted

Q- They can only work half the year do they?

A- I think rather more than half the year at Dutch Flat.

Q- What year was it you went to Gold Run?

A- I went there in '61

Q- Was there any mining done there between '61 and '65?

A- Considerable.

Q- Done in this small way that you have spoken of?

A- Yes

Q- What were the number of miners there between '61 and '65? A- Well there were were from 200 to 300 there in that district.

Q- Persons that were working in the Mines?

A- No. I mean the population. I can not say just how many were engaged in the mines.

Q- Just give us some idea. Were there 50 or 60, from '61 to '65, working in the Mines? A- There were not much less than 100 men there if any.

Q- Would it not be more? That is what I want - to get at it.

A- I think not, actually employed in the Mines, at work, what you would call at work in the Mines.

Q- Where do these canals take their water from?

A- The South Yuba from the South Yuba River. The Bradley and Gardner ditch from the North Fork of the American.

8406 Q- Have you ever been up

there to the head waters?

A- I have been on the Yuba River frequently. I never was at the head of Bradley and Gardner's ditch.

Q- Is not that a country that has no soil on it?

A- Not much.

Q- It is all granite is it not?

A- Pretty much. There is some soil.

Mr Byrne- What country are you talking of now?

Mr. Cadwalader. From the head water of the Yuba to the head waters of the American And it is in this country that is devoid of soil that these canal reservoirs are located? A- I do not say they are devoid of soil entirely. I have been at that large reservoir of the Yuba Company several times.

Q- You would have hard work to find soil enough to grow a tree, would you not? A- There are a good many trees grow around there They do not require much soil.

Q- But the granite is visible everywhere.

A- Everywhere.

Q- Between the Yuba River on the North and the American on the South?

A- As you rise the hill going towards the American River you find more soil and the timber is heavier

Q- Bear River lies right out in there! A- That is the head of Bear River, that slope

Q- That is the divide between the Bear River and the American?

A- Where the railroad runs up is the divide.

Q- That is why the Bear river is so small a stream compared with the American?

A- The water-shed is considerably small compared with that of the American, very small

8408

Q- It is hardly one tenth of its size is it? A- I do not think it is in dry time.

Q- Do you the population of Dutch Flat engaged in mining? A- I do not.

Q- You have not been there enough for you to tell?

A- No I have not.

Q- Is not all the mining in Placer County now done on the ten mile section of this Gold Run divide, with what is called the Iowa Hill divide?

A- No I think not.

Q- Where else?

A- There is the Forrest Hill divide, Todds Valley, Michigan Bluffs, and Deadwood.

Q They are the same divide?

A I did not consider them so up there, Shirt tail Canyon divides the two.

Q I am speaking of Iowa Hill divide, Forrest Hill Michigan Bar and Michigan Bluffs are all between the North Fork and Middle Fork?

A Yes.

Q On that peninsula?

A Yes

Q What I ask you is this; Is not all the mining in Placer County North of the American River done in a ten mile section of the Rail Road divide — that is, as far as you know — embracing the Dutch Flat mining district and the Gold Run mining district?

A Ten miles north and south would about cover it, from Dutch Flat to the Middle Fork of the American River.

8410 Q You mean east and West

do you not

A North and South

Q It is only five miles from the American to Bear River is it not?

A not more than that

Q That would be north and south would it not? Bear River runs north does it not?

A It runs north of the Dutch Flat district and Gold Run district,

Q You mean a ten mile section of the Rail Road divide?

A No. The Rail Road divide would include that divide between Bear River and the North Fork of the American; and then there is a divide between the North Fork and the Middle Fork of the American

Q You do not understand me. I am speaking now of the minining territory north of the North Fork?

A That would only include the Dutch Flat and Gold Run district and the Last Camp district

Q That would be about ten miles would it not?

A Ten miles up and down and about five the other way. Five miles to ten probably would cover it.

Q That is the only part of Placer County north of the American River where there is any mining, any hydraulic mining, being prosecuted as far as you know?

A Oh there has been some done in the vicinity of Auburn and through there

Q I am speaking of hydraulic mining?

A There has been some hydraulic mining done there

Q But I mean when you were there last, or there now?

A That would cover about

what there was at the time I left there

Q The ten miles

A Ten miles up and down and five miles wide, between the North Fork and Bear River

Q Now what interest is prosecuted east of that ten by five mile mining district? what is the principal interest east of there?

A The lumbering and wood business principally.

Q That is carried on very largely is it not?

A It has been.

Q There are a great many mills there are there not?

A They have diminished somewhat from the former time.

Q And wood choppers by the hundred?

A There is a good deal of wood manufactured all along the line of the Road

Q It is manufactured there

by the thousands of cords is it not, and lumber is sent from there all over this state?

A I believe so. and to Arizona too. Or used to be

Q And also throughout Nevada?

A Yes

Q Do you know the production of lumber in that section of country?

A I do not, Towle Brothers are the most extensive operators.

Q Do you know the number of persons engaged in lumbering and the wood business?

A No I do not. There is quite a large population there

Q Then there is a good deal of lumbering carried on below the Dutch Flat mining district, is there not, down as far as the New England Mills?

A Wood Business. not much

lumber.

Q Well lumber and wood

A Very little sawed lumber at present or for several years.

Q What is the population, or what number of persons in this ten by five mile district, are actually engaged in mining? that is when you were there last?

A I could not tell probably a hundred or two

Q What is the population of that district when compared with that of Placer County?

A It used to be the most thickly settled portion of the County.

Q That is not what I asked you, I asked you, What is the population of that district as compared with placer County, speaking of the ten by five mile district

The Court The aggregate?

8415 Mr Cadwallader The aggregate-

Yes sir

A I do not know as I could give an intelligent answer to that question. I hardly think I could.

Q You could not tell?

A No.

Q Are there 200 persons engaged in mining in that mining district?

A There were in 78.

Q There were 200?

A There were more.

Q Do you think there are two hundred now?

A I think there are. I have no doubt about it.

Q Would you be willing to to state it as something that might be relied on?

A As to there being 200 men engaged in mining, laborors and all?

Q Yes?

A I would.

Q Is that a fair estimate

A I do not think it is. large enough

Q How large would you make it

A I suppose you mean that whole district, that ten miles?

Q That ten by five - yes?

A I believe there are 500

Q Do you know the value of the property in that district when compared with the remainder of the property in Placer County?

A No I do not at the present time.

Q Do you know what the resources of Placer County are? Could you enumerate them? Commencing with the lumber, say, Or, I will ask you whether or not extensive Iron mines are being worked?

A There are

Q Where Pig Iron is being manufactured

A Yes

Q Then the next interest is the Lime business?

A Considerabee lime is made

Q That is a very large interest is it not?

A It was

Q All this section of country is supplied by Placer County with lime is it not, and has been for 20 years?

A That Lime goes all over I believe. I know it has been sent down to Tulare.

Q And also to the Marysville Country and also to the State of Nevada?

A I do not know as to that I know we get Auburn Lime way down in Tulare that is all I know

Q Now come to the Fruit growing interest at Auburn and New Castle embracing berries and one thing and another has not that been carried on very extensively?

A Yes it has.

Q For the last ten years?

A Yes.

Q You find large orchards, large Straw Berry beds; and you find these fruit drying establishments?

A At New Castle.

Q Also at Auburn?

A No

Q That at Auburn was burned up last year was it not?

A I do not think it was ever used for that purpose.

Q Now come to the next interest take the granite quarries at Rocklin and Penryn?

A That is very extensive at Penryn.

Q A great many men employed and have been for 20 years?

A Perhaps not quite that long; I do not know probably for 15 years.

Q Then what do you find at Rocklin beside granite?

A Some Fruit and some little farming there

Q Is there not a large Rail Road Establishment there?

A Simply a round House

Q They have works there; you can always 20 locomotives there can you not?

A It is the end of the Truckee division; it is the head quarters of the Truckee division

Q What section of that County is devoted to agriculture?

A And fruit raising?

Q No I mean raising the staples?

A From Auburn down to Lincoln Sheridan and through that section, including Roseville, part of Roseville may be in this County though I do not know where the line is

Q There is 240 miles is there not both sides of what is called the Marysville or California and Oregon Rail Road?

A I am not much acquainted on that road. I never was

8420

up through there but once.

Q There are large towns there are they not?

A Lincoln is quite a large town.

Q And Sheridan?

A Not so large as Lincoln

Q Placer County raises more grain than Sacramento County, does she not—raises more wheat?

A I hardly think she does, possibly she may however. I think Sacramento does not raise much wheat.

Q Placer County has large amounts of live stock does she not?

A Considerable in the lower part of the County

Q Now is there a county in the state with greater and more varied resources than placer County?

A I think there is perhaps not more varied but greater

Q I mean greater and varied, I put the two together

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A Some have greater but probably not more varied resources."

Q. The mining interest of Placer County both in dollars and population represents a very small fraction of either or both totals, does it not?

A. I do not know. It is not a small fraction.

Q. Is it not very small?

A. No, I think not very small.

Q. Is it not below a tenth.

A. I should think not.

Q. Are you certain?

A. I have not been in the county for four years but previous to that I was pretty well posted. At that time I should think the mining interest was nearly as large as all the rest.

Q. I will ask you whether all these other interests have been growing about in the same ratio as the mining interest has been depreciating.

A. They have been growing.

Q. About in the same ratio as the mining interest has been depreciating?

A. I do not know as to that.

Q. I will ask you this question: Is not nearly all the mining at Dutch Flat — is not nearly all the mining in this section of 10 by 5 carried on by corporations — either foreign or having their principal place of business in San Francisco?

A. I do not know of but three corporations in that section.

Q. How? A. I do not know of but three corporations in that section.

Q. What are they?

A. The Gold Run Ditch and Mining Company and the Cedar Creek.

Q. That is two.

A. And the Gold Run Hydraulic Limited.

Q. That is three.

A. Those are the only corporations I know of and that I can bring to mind that were there in 1878.

Q. Those are at Gold Run?

A. Yes Gold Run and Dutch Flat.

Q You have not commenced enumerating at Dutch Flat have you? You have not name the Little York.

A. The Little York is not in that district, that you have been talking about.

Q. That is across the river, that is a fact: you have not named the Polar Star?

A. I do not know that that is a corporation. It was not at that time.

Q. You have not named the Southern Cross?

A. That belongs to the same parties.

Q You have not named the Franklin have you?

A. That did not used to be a corporation. It may be now.

Q You have not named the Boston. Just answer this question please whether the principal part of the mining ~~of~~ on this section of 10 by 5 is not carried on by corporations not having their principal place of business at either Dutch Flat or Gold Run

A. No sir. The principal part is not.

Q. Well, name any large mine that is being carried on by a corporate body ~~of~~ having its principal place of business at Gold Run or Dutch Flat?

A. Possibly I misunderstood your question about the principal place of business. I will qualify it by saying that these Dutch Flat companies have their places of business, some of them at San Francisco, The Hayward Company for instance.

Q. What is the Polar Star and Southern Cross?

A. It is not a foreign company however.

Q. Those two mines are now run by the Merchants Exchange Bank of San Francisco, are they not?

A. I have heard so by report.

Q. The Bank got them from

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Mr. Hayward. Now, I will ask you this question —

Mr Byrne (Intg.) I would like to have the witness answer the last question you asked him. Mr. Reporter, will you read the question.

(The Reporter read: Q. Well, name any large mine that is being carried on by a corporate body having its principal place of business at Gold Run or Dutch Flat?

Mr Cadwalader Of course excepting the Gold Run. That we understand is a domestic corporation.

A. I do not know that I can name any.

Mr. Cadwalader. That is about the only one. That is the way the business is carried on in those two mining districts by corporations not having their principal places of business in the county.

A. I think the Gold Run is an exception for a corporation.

Q. Those companies all bring in clear water, do they not?

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A. Comparatively so.

Q. It is pure and undefiled and it is brought from a high elevation — brought in at a very high elevation?

A. It is brought in on the highest ridges generally; as high as they can get it.

Q. And it is capable of being distributed all through Placer county with the exception of the country lying south of the North Fork?

A. It could be brought right along down the ridge.

Q. It could be distributed over any part of the county, could it not?

A. I think so.

Q. To what extent has fruit-growing been carried on in this section of the county — 10 by 5?

A. To no large extent. Most of the people have homes there and have more or less fruit trees, sometimes half an acre or an acre.

Q. It is peculiarly adapted to the raising of apples, is it not.

A. Yes. Apples do very well in that locality.

Q. The country is very thickly timbered is it not?

A. It was in early days.

Q. The country is very heavily timbered from Alta up?

A. The timber is pretty well gone now all along that divide.

Q. It has been a very heavily timbered country?

A. Yes, it was very heavily timbered

Q. You can not look in any direction from that divide but you see heavy growths of timber particularly across the North Fork?

A. Looking across the North Fork it has a very heavily timbered ridge.

Q. The timber there has never been touched?

A. Not to the extent that it has on the Dutch Flat side.

Q. There is no way to get at it? There is no way to get across the North Fork?

A. They have no market out-

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side of their own consumation of timber I believe.

Q. How long does the snow lay at Dutch Flat and Gold Run?

A. It varies in different seasons. I have seen it lay there - I have seen snow lay at Gold Run for six weeks or two months in the year, but not often as long as that however.

Q. It lays there until about what time in the year?

A. In January and February. There is not much snow generally in March and sometimes there will be patches in April.

Q. It comes about what time to stay?

A. Some seasons it does not stay at all. It will fall two feet and then it will turn around and rain and in two days it will be gone and then again it will snow and turn cold and lay there several weeks.

Q. As a general thing when

it is raining here it is snowing there?

A. It is not always so.

Q. That is true at Emigrant Gap as a general thing?

A. When the temperature at Gold Run is 45 it will snow at Emigrant Gap and even lower down than that — at Blue Cañon.

Q. Do you know whether in assessing these mines, whether the water — the canal — their canals are not universally assessed at more than the mines?

Mr. Byrne. I object to the question. It is not in cross-examination.

Mr. Cadwalader. If you do not know that say so.

A. They are not as far as my knowledge goes.

The mines are assessed for the most as much or more than the water.

Q. How?

A. As much or more than the water. I speak from my

X30

own experience only.

Q. As much — what do you mean. I want to get at the proportion.

A. For instance a company may be assessed at $100,000 and the ditch may be valued at $45,000 and the mine at $65,000.

Q. They are nearly equal then?

A. It depends on the extent of the mine. Some water companies do~~wn~~ not own any or very little mining territory.

Q. You spoke about quartz mills. I believe you spoke about one quartz mill, but that, you said, was a mill ~~run~~ on cement rock?

A. At Indiana Hill I presume you have reference to.

Q. It was crushing what kind of rock?

A. Cement, similar to that.

Q. It was not a quartz mill?

A. Not particularly a quartz mill but they are constructed about the same.

Q. Do you know of any quartz

mill in operation in this mining district, 10 by 5 — I do not mean any experiments that have been tried in the way of quartz mills but any quartz mill in operation?

A. No sir, I do not know of any running. There was one at Emigrant Gap even on the American river but I do not think it ever amounted to much.

Q. In this 10 by 5 district, there is no quartz mill in operation?

A. I think not.

Q. Is there any in the eastern part of the county that you know of?

A. There were three in 1878. I can not speak of now.

Q. But now I mean.

A. I do not know whether there is or not.

Q If there was any there in operation you would be very apt to know of it?

A. I think I would.

Q. You are satisfied there is none

there?

A, I do not think there is.

Q, Now, do you know of any quartz mill in operation with the exception of three in any part of Placer County north of the American river?

A, I do not know what number are operating about Auburn and Ophir. There was some there I think.

Q, I want to know whether you know if any?

A, I do not.

Q, I believe there is one down below Newcastle?

A, There is; what is called the Snovel mine below Newcastle and the Fitzpatrick mine near the Ophir—they were operating there a few years ago about the time I left the county.

Q, Neither of those mills tail into the American river. Their detritus would go in the plains, would it not?

A, I think the Snovel mine would go into the American river, Q, Is not the Snovel mine on a flat?

A, It is a flat place. I have been at both places.

Q. It is about five miles from the river is it not?

A, As much as that I suppose quite a distance.

Q. And the mill at Ophir is about five miles from the river is it not?

A. I should think they are over five miles from the American river.

Q, Do you know of any quartz mill north of the American river within five miles of the American river.

A, I do not.

Q, You only know of three in the county altogether?

A, I can speak of two, of my own knowledge, That is the Snovel mine and what is known as the Fitzpatrick mill.

Q, When the mill is in operation it generally is known — it makes itself known? All mining operations are magnified are they not?

A. I do not know that they are to any great extent.

Q. If a claim takes out $2500 they call it $25000?

A. I was not in the habit of doing that. I do not know how it is with others.

Q. Have you ever been on the Iowa Hill divide?

A Yes.

Q When were you there?

A. It has been a good many years since I was there. I do not think I have been there since 1864.

Q. That is a kind of a tongue of land lying between the middle and the North Fork?

A. How?

Q. It is a kind of a tongue of land lying between the middle, and the North Fork?

A. It is quite a broad divide— several miles. I have been across it a good many times from Iowa Hill ~~an~~ to Michigan

Bluff.

Q. Instead of being a very broad one it is very narrow is it not?

A. It is broader than the Dutch Flat divide.

Q. It broadens as you go up? How far is it from Iowa hill down to Todd's Valley.

A. It must be about 8 or 10 miles — about 8 miles I should judge by the way of Yankee Jims.

Q. That is a mining district there, is it not?

A. It was in early days.

Q. From Todd's Valley on the west to Iowa hill on the east?

A. You mislocated it or I did. It is north. These ridges run east and west.

Q. I will ask you if any mining is done on the divide west of Todd's Valley?

A. I am not much acquainted below there. I never was at Todd's Valley but once.

Q. I will ask you whether the size of that mining district on that divide is not just about ten by five?

A. I should think it was larger than that. I should think it would cover ten miles square. It is up and down the ridge probably 15 miles.

Q. Embracing what points?

A. From what is known as Deadwood to Todds Valley. It is above Michigan Bluff.

Q You find no hydraulic mines up as high as Deadwood?

A. There were none there when I was acquainted with the country.

Q. None there?

A. None at Deadwood.

Q. You find no hydraulic mine higher than Iowa hill?

A. Michigan Bluff — that lies higher up.

Q. How far are they apart?

A. Eight miles.

Q. Which is the furthest up stream? A. Michigan Bluff — considerably.

Q. Furthest east? A Yes.

Q. How far is it from Michigan Bluff to Todd's Valley?

A. I should not think it was more than six or seven miles. Possibly it might be eight.

Q. From Michigan Bluff on the east?

A. To Todd's Valley on the west. Forest Hill would come in between and Bird's Valley.

Q. And that is the district where the mining is going on now. Is there mining going on in any place now — hydraulic mining?

A. I can not say of my own knowledge. I have not been there for years.

Q. They have no artificial water on that side have they?

A. They have ditches from those streams and cañons.

Q. Comparatively a small amount of water though?

A. I think not a very large supply of lasting water.

Q. Do you know the number of persons engaged in mining on that divide?

A. No sir, I do not.

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Q. Do you know the population there, the total population?
A. I have no data that I could tell anything about it.
Q. You do not know?
A. No sir.

Redirect Examination of H. H. Brown

By McByrne. Q. How long is it since you have been over on the Iowa Hill divide?
A. I do not think I have been there since 1864.
Q. Then as a matter of fact you do not know anything about the population or the number of persons engaged in mining? A. No sir.
Q. Or the extent of mining operations there?
A. No sir.
Q. Do you know of a quartz mill which has recently been erected on the North Fork of the American River just below

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there known as Poole's mill?
A. No sir.
Q. You do not know about that?
A. No sir.
Q. Did you mention the extensive quartz mine, the mill near ~~North~~ of Colfax, in ennumerating the quartz mills in Placer County? A. No sir.
Q. Do you know about that?
A. Yes.
Q. What is the name of that mill?
A. The Rising Sun.
Q. Now, in regard to the relative values of these canals and the mining claims, suppose the owners of the claims were prevented from working them, what would be the value of the canals and the water?
A. Well, in my opinion, it would be very little.
Q. Very little? A. Yes.
Q. Their value would be practically destroyed, would it not?
A. I think so. The expense of

keeping them up would be so great that they would be worthless.

Q You were asked if it was not possible to bring the water from these canals on the Gold Run divide so called, down to the lower part of Placer County for the purpose of irrigation. Is it practical to do so, in your judgment?

A. I should think not in the present state of farming down there.

Q Would it be profitable even if it were practicable?

A. I do not think it would be.

Q. What distance would it be necessary to bring the water before you would get to what might be called a farming or fruit-raising country?

A. Between 30 and 40 miles — 35 miles.

Q What is the character of the country over which that water necessarily must be brought in that case?

A. It is very rough and abrupt between Gold Run and Colfax.

Q Can you form any estimate of the expense of constructing a canal from Gold Run down to the neighborhood of ~~Auburn~~ Auburn where these fruits are produced of which you have spoken?

A. That would depend on the capacity of the canal somewhat and the amount of water it is proposed to run.

Q. Say a canal large enough to bring the amount of water now in use for mining purposes — that is now available for mining purposes in the Gold Run District, say six or seven thousand inches?

A. It would cost a good deal. It would cost a good many hundred thousand dollars to build it.

Q. A great many hundred thousand dollars?

A Yes.

Q And you think it would be

KK2

profitable?

A. No sir, not for the farming that there is there.

Q. In reply to a question from Mr. Cadwalader, you said that between the Yuba river and the North Fork of the American, the granite was very observable. At what points do you mean: How far from the Gold Run Mining district is that?

A. The granite makes its~~elf~~ appearance a short distance above Blue Cañon between there and Emigrant Gap.

Q. That is the first time you saw granite in that country?

A. Yes, the first place — near about Emigrant Gap.

Mr. Cadwalader. About Emigrant Gap? A. Yes.

Mr. Byrne. How many miles is that from Gold Run?

A. It must be 15 or 16 miles — possibly 18.

Q. What is the character of the country — I mean the formation of the bed-rock in the country from that point down to say ten or twelve or fifteen miles below Gold Run?

A. It is slate formation.

Q. Is there any granite?

A. In that belt there is no granite bedrock. You can discover granite bowlders once in a while.

Q. But no granite bedrock?

A. No sir.

Q. You have said that the lumbering ~~interest~~ and wood manufacturing interest has been carried on there. What has been the effect of that with reference to the denude country?

A. It is nearly cleaned off.

Q. What effect has that denudation had upon the natural washing of the country, the washing of the soil from the hill sides?

A. In hauling wood and lumber and logs it necessarily cuts up the face of the country a great deal and the heavy rains come and run it off into the streams.

Q. Every rain that comes. You were asked about your estimate of the gold production and if it was not earned by about 400 men. Let me ask you what wages were paid to these men in the mines say from 1865 to 1875?

A. From three to five dollars a day.

Q. As a matter of fact was the production of the mines divided among the men who worked in the mine or did it go to the proprietors?

A. It went to the proprietors.

Q. The men got their wages whether the mines paid or not:

Mr. Cadwalader. We will admit that.

Mr. Byrne. You were asked if it was not true in your opinion that the freshet of 1880-81 had washed out all the ~~boulders~~ tailings from the north Fork of the American river and by inference whether or not all these tailings had not been deposited there since from the Gold Run mine. Is it possible that that amount of tailings which you saw ~~from~~ in the American was but by deposit there from the Gold Run mine in any one season?

A No sir; it could not.

Q It is not possible?

A No sir.

Q. Could any considerable proportion or quantity of them be so deposited in a single season?

A. A small proportion of the mass that is there.

Q But a small proportion of what is there?

A Yes.

Q What do you say the value of the property of the Gold Run Ditch and Mining Company is, in your opinion?

A. I will have to answer it with a qualification.

Q Answer it in your own

way. I want your answer.

A. That is, do away with litigation I think the property is worth $600,000.

Q. The property free from litigation in your opinion, would be worth $600,000?

A. Yes.

Recross Examination of H. H. Brown

By Mr Cadwalader. Q. Suppose this Gold Run Mine was of so little value that the proprietors of it did not know whether they would work it out or not, would that have its value in your opinion?

A. I do not really understand your question?

Q. Well, suppose that the Gold Run Mine was of so little value in the opinion of the proprietors of the mine that they did not know whether they would work it out or not: would that have any influence on your mind in regulating the value of it?

A. Certainly it would.

Q. It would?

A. Yes.

Q. You would not want it at all under such circumstances?

A. I would not if I supposed it was worked out.

Q. Well if Mr. Gould would tell you that he was in doubt whether he had worked this mine out you would not want it at any price, would you?

A. I should form my own opinion of the mine regardless of what his judgment was.

Q. That would lead you to regard it with a very great suspicion?

A. Yes, it would set me to thinking about it.

Q. If you were like Mr. Hamilton Smith and thought the mine would yield 30 cents per yard, you would

RKS

give no actual sum for it?

Mr Byrne. I object to that question. It is leading.

Mr Cadwalader. I will withdraw the question.

Mr Cadwalader. Q. Would the circumstance that this mine had not declared any dividends for five years have any influence on your mind upon the value of it?

A. It would not, knowing the circumstances as I do in relation to it.

Q. It would not?

A. No sir.

Q. Have you ever worked this mine?

A. I have:- Q. I mean the lower part of it?

A. I have.

R&4

Q What makes you think it is worth $600,000

A I form my judgment on that the same as other mining property that I have owned in and have seen

Q To be worth $600000 how much should it pay a year?

A It ought to pay $100000 clear money

Q Clear money a year?

A yes sir

Q If it did not do that it would not be a good investment would it?

A That would pay pretty big interest on the money if the property was going to last 30 or 40 years

Q Mining property differs from other property particularly in the exhaustion of the principal every year, does it not?

Mr Byrne I object to that as not cross examination

Mr Cadwalader. I simply asked in regard to the assessment not in regard to the value. I asked the question for this reason: the Law requires the Assessors to make a report each year to the State Surveyor General who issues them in a tabulated form

A As you work a mine out of course you are exhausting it, it is not like a farm or something of that kind which is being made better all the time

Q And this property should pay $100 000 a year in order to be worth $600 000? A It ought to pay that much taking everything into consideration

Q That would be only 16 2/3 per cent per annum wouldn't it? Has not the rate of interest always been more than that in the Dutch Flat country?

A It was up to the time I left there

Q It was always more than that was it not — that is all loans on good notes and good mortgages? A Oh about 1¼ per cent 15 per cent per annum

Q Don't mining property in order to pay have to yield a great deal more than that — more than 16 per cent?

A It ought to yield more than that

Q well in order to pay?

A That depends upon circumstances somewhat I think.

Q This Gold Run mine completed its tunnel when?

A In 1875 I think

Q well it has done

no work since has it, no dead work?

A It has done a good deal; the first years after that

Q That is not what I asked you. I asked you: whether this Company had done any dead work since the completion of this tunnel?

A They have

Q Where? A Opening that mine

Q Was that all?

A If you call opening and improving ditches dead work there is more or less of that to do every year, it runs up into the thousands some years.

Q I am talking, as I suppose, to a miner. I will ask you again whether this Gold Run Mine has done any dead work, in mining parlance since the completion of the tunnel. A If you tell me what you mean by dead work I can answer clearly

Q Do you know what dead work is? A I do not know how you speak of it

Q Well, suppose a tunnel was dead work

A They have in that sense, they have run the tunnel ahead 400 feet since that time

Q- They have run the tunnel ahead where? A- Into the mine from where it was at that time.

Q- Well that is dead work, now when did they do that?

A- They did it since 1878.

Q- You know that of your own knowledge? A- I do.

Q- What tunnel is it?

A- It is a tunnel of the Gold Run Ditch and Mining Co., an extension of the tunnel as completed in 1875.

Q- Well it is a tail flume is it?

A- It is where they run gravel through.

Q- They have extended their tail flume into the pit. Do you know what that bank pays?

A- I do not

Q- How in the world do you know the value of the mine if you do not know what the bank pays? A- I judge from what I have seen of mines before I do not go into cubic yards.

Mr. Byrne Complete your answer.

A- I judge the value of the mine from what it has paid, we know what is taken out from year to year the amount that is left.

Q- Do you know how much Mr. Gould says it paid?

A- I know how much it did pay for the first year or two, regardless of what he says.

Q- On the basis of $600,000

how much should it pay?

A- I said it ought to pay $100,000 per year clear.

Q- How much a yard?

A- I do not know anything about yards.

Q- You do not know whether it would pay five or ten or thirty cents?

A- I am satisfied it pays more than five or ten cents possibly it would pay thirty cents may be more.

Q- Do you know how much that top earth paid?

A- I do not.

Q- Do you know how much Professor Whitney reported that it paid.

A- I think I have heard. I have not the figures.

Q- It was under five cents was it not? A- I do not know.

Mr. Byrne We object to that examination

Mr. Cadwalader - The witness says the mine is worth $600,000 and we want to know whether he knows anything about the top or bottom— do you know how much a miners inch will wash of that bank?

A- I do not.

Q- And without knowing how much the dirt paid or how much the water would move you still think $600000 would be a fair price for the mine?

A- We miners used to be in the habit of figuring in yards to come at the value of a mine; we get at our estimate in a different way.

Q- Are you speaking of $600000 as the actual value of the property or the price that you might get out of a foreign corporation? A- That is what I would value it at if I had to sell it myself with the litigation set aside so that we could operate from year to year without any difficulty.

Q- Although it had paid

no dividend for five years and although the owner of it had sworn that he did not know whether he was going to work it all the time or not, and although you do not know how much a miner's inch would move or how much the bank would pay still you think $600000 would be what you are willing to give for it, is that so?

A- You speak of dividends, you say there are no dividends, they made money and invested it in other property. They did not divide the money.

Q- I am speaking of the corporation - I am speaking now of the corporation and I ask you notwithstanding the corporation has declared no dividends in five years-

Mr. Byrne I object to that because it assumes that the corporation has not paid dividends and the witness has not so testified

Mr. Cadwalader That is what Mr. Gould said they had paid no dividends.

Mr. Byrne I do not think Mr. Gould said so. On the contrary he has testified that there has been.

The Court You can ask him the hypothetical question if there had been none.

Mr. Cadwalader Now to Mr. Byrne you said that the wages there in 1865 were how much per day, the wages of the men?

A- From $3 up to five.

Q- Well what had it got down to when you left?

A- I think they were paying two dollars and a half at the lowest - two dollars and a half is the lowest in 1878.

Q- Well what kind of labor was used in the pit?

A- In regard to white men?

Mr. Byrne I object to that.

Mr. Cadwalader Well what was the price of the labor employed?

Mr. Byrne I object to that.

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Every question that I asked excepting the last one was in crossexamination of the matter he brought out in chief.

Mr. Cadwalader— I want to show that the wages of Mr. Brown's laborers had got down to forty or fifty dollars a month

Mr. Byrne You can not show it as a matter of fact but as crossexamination I object to it.

The Court It has no reference to the value of the mine

Mr. Cadwalader Mr Byrne asked whether the laborers did not get three or four dollars a day. Did not the wages of the men working in the Gold Run pit amount to about fifty dollars a month when you went there? A- I think the wages had been reduced that fall, the Fall of 1857 to two dollars and a half a day which would be a little over fifty dollars a month.

Q- Did not it get down below fifty dollars?

A- No, Sir; not to my knowledge

Q- Was not there a great deal of labor used there that was not paid for at a greater rate than thirty dollars a month?

A- There might have been some.

Q- Well was not three fourths of it employed at less than forty dollars a month?

Mr. Byrne What time are you speaking of?

Mr. Cadwalader When he left there?

A- There were chinamen running powder-drifts there but they were working by the foot I believe, I do not think they were working by day's wages.

Q- Well the laborers there did get less than forty dollars a month did they not?

A- No. Not white labor

Q- Well Chinese labor?

A- I do not know is there was any employed by the day, I hardly think there was

Q- Well chinese labor was

the principal labor used in those mines was it not?

A- It was not at that time.

Q- How is it now?

A- I do not know.

Q- How was it in 1875?

A- In 1875 there was less chinamen there than there was—

Q- Have there been chinamen there at any time?

A- Chinamen were employed running powder-drifts.

Q- Do they do the heavy and dirty work in hydraulic mines? A- No sir. Not in the Gold Run Mine at that time

Q- Well generally in those hydraulic mines there?

Question objected to.

Q- I will not pursue the question further. You said to Mr. Byrne that it was not possible that there could have been the quantity of debris that you saw between the mouth of Secret Canon and the foot of Pickerings Bar deposited in the North Fork during the present mining season.

Mr. Byrne We object to that, that is not cross examination. He went into the matter himself and I simply cross-examined on it

Mr. Cadwalader I beg the gentleman's pardon. He got the witness to say that it was not possible

Mr. Byrne. Mr. Cadwalader asks him the direct question whether the floods of 1880/1 has not washed out all these tailings and the inference necessarily was that what remained there now must have been washed in since. He is going over the matter again

The Court. You got him to say that that amount could not have come in a single year. I do not know what the question will be. Ask the question.

Mr. Cadwalader Now do you know the total amount of the deposits between Fords Bridge or between the mouth of Secret Canon and Pickering

Bar?. A. Not in cubic yards

Q. Well, how then can you say that it could not be possible that it was deposited there that year? A. I have knowledge enough of that place to know, that they could not possibly run that much in there in a single year

Q Well, how many mines were running in there?

A The Deer Run mine was the principal one.

Q Well, that is only one, now what other one is there?

A I believe that Halsey's mine was running

Q. Well, what other one?

A I did not know of any other

Q. Yes, you know of another one? A. That was running last season?

Q Yes sir, the Cedar mine?

A I do not know that they were running last year. They have got a mill there, I do not know that they were hydraulicking

Q. That is, you do not know anything about it?

A I do not know

Q Now, how on the other side, on the Iowa hill divide, have not they been running in there all this year? Didn't you see them running in?

A I saw them running when I was there, one claim or through one gulch only

Q Well, now in the first place you do not know the quantity, between the mouth of Secret Canon and the End of Pickerings Bar, to start with; and you do not know what has been put in the river this season. Both these postulates are true, are they not?

A. I know what my opinion is in regard to the depth, I do not know anything about the width

Q I am not talking about the depth, you have Explained that, but the quantity?

A As I said before, I did not know about the cubic yards

Q You do not know what hydraulic mines have been depositing in that section of the river this year, that is so, is it not? A. Not from my own knowledge because I have not been there while they were operating

Q Now if you do not know those two things how could you state that it was not possible that in that section of the river, four miles, that that deposit could not have been made this year?

A I spoke of one Company. I was speaking of the Red Run Company, it would be impossible for that Company to run that amount of material in there in a single season

Q That was not the way you answered the question?

A That was the way I

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intended to answer it

Q You do not wish to be understood that all the Companies that have been tailing into that section of the River this year could not have made the deposit which you saw below the foot of Pickerings bar and above the mouth of Secret Canyon?

A I do not believe they could I do not believe it possible that All of them could have made that much debris.

Q Now you say that the mining ditch would be worthless.

Mr Byrne He has been into this subject before, The question that you are now examining upon was one that I asked in Cross examination of your witness. You undertook to prove by him that the water in these ditches could be made available for the purposes of irrigation and fruit raising and all that sort of thing and could be carried down to the lower part of the Count where these industries were being prosecuted, and in cross examination of that witness I endeavored to show by the witness that it was not only untrue as a matter of fact that any such thing could be done, impossible rather that it could be done, or impracticable bu even if it could be done the expense which would be entailed would be so great as to practically forbid its execution and now he is going into that same subjec again. he seems to forget that he has made Mr Brown his witness and has examined him in Chief upon the points upon which I cross examined him and I certainly object to going into it again

Mr Cadwallader You said it was 30 to 40 miles from Gold Run to Auburn is that so?

A It is about 29 miles from Gold Run to Auburn I think, 28 miles or something.

Q The farming Districts Commence below the New England Mills do they not?

A Not to any extent

Q Well I mean the farming district in Placer County Commences just below the New England Mills?

A There are some small valleys along side of the Rail Road.

Q Well Clipper Gap is in a farming Country is it not?

A Not at Clipper Gap.

Q Well Applegates is is it not?

A Applegate has a Vineyard there

Q That is the largest in

the County?

A I do not Know that it is

Q Well it is the best Known

A It is one of the oldest

Q Well how far is that from Gold Run?

A It would be about 18 miles.

Q You strike a farming Country in 18 miles do you not, a fruit raising Country?

A To some extent

Q There would be no difficulty in getting a ditch down there would there?

A Oh it is a very rough Country. It is down grade all the way.

Q There is no obstacle that a ditch man would Count to amount to anything is there between Applegates and Gold Run?

A Yes they would Count a great deal on it.

Q Well where at Secret

Canyon

A It would be principally between Colfax and Gold Run the heaviest extent.

Q Well there the pipe would have to be taken across I suppose, there would be two ravines. The Bear River ditch runs down the same divide does it not?

A Yes sir it is taken out of the River below Colfax however.

Q There is no trouble there in getting that ditch down?

A It could be done as I said but it would be very expensive.

Q Well it would be very easy would it not as compared with the country above Gold Run?

A No Not easy In fact that section of the Rail Road is one of the hardest they
8471 had to build?

Q Have you ever built ditches?

A I have been interested in ditches.

Q You say that there is granite at Emigrant Gap?

A About there the granite first shows. It shows immediately after you pass through the tunnel I know above.

Q If you get the ditch water down into the farming country there would be a great demand for it would there not?

A Not at paying prices— I think not.

Q There would be a great demand for it would there not?

A Not for that quantity of 7 or 8000 inches

Q Well it is understood that eventually all this water will be used for that purpose is it not?

The Court That is hardly

Cross examination

Redirect Examination of H. H. Brown

Mr Byrne state to the Court: One very serious obstacle in the way of a deep Canyon between Gold Run and Colfax, I mean a very serious obstacle to the Construction of the ditch?

A Well the long ravine — the main difficully is what is called long ravine where the trestle work of the Rail Road is

Q Is that the Canyon that is just this side of Cape Horn and beyond Colfax?

A Yes sir.

Q Now you said that in order to make this property worth 600 000 dollars in your opinion it should pay 100 000 dollars a year from your Knowledge of the property and your experience as a miner and particularly in connection with that mine, do you think that that mine can be made to pay 100 000 dollars a year?

A I do

Q In regard to sixteen and two thirds per cent interest being a low interest upon an investment which would last 30 or 40 years what do you say as to that, what is the current rate of interest on investments in this State at present?

A About 7 or 8 per cent I believe, you can get plenty of money advanced on wheat for 7 per cent.

Q What do you say as to 16 2/3 per cent?

A It is pretty large interest

Q on a mining investment

A I consider it a pretty fair

interest

Q Now you say that knowing the circumstances as you do the circumstances surrounding that property you would be willing to estimate its value at 600.000 dollars provided this question of the right of the miners to work these properties was disposed of. Will you state briefly what these circumstances are?

A I do not know that I understand the question.

Mr Cadwallader I object to that as not re examination

Mr Byrne. I have a right to go into it again. Mr Cadwallader asked you why you said that this property was worth that amount of money, you said knowing the circumstances as I do I would estimate it that amount or words to that effect?

A I consider the mine now just fairly open and

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ready for making money. The principal part of the dead work is already done. The extention of one tunnel there will last for years without any other dead work and from that Circumstance I base my Judgement

Q Speaking about the matter of dividends Can you assign a good reason or any reason why dividends have not been formerly and regularly declared heretofore =

"Question objected to"

The Court He has already answered the question

"

Recess Until
2 pm